

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF VIRGINIA
Lynchburg Division

UNITED STATES OF AMERICA, Criminal No. 6:13cr22

Criminal No. 6:13cr22

vs.

Lynchburg, Virginia

LES CHRISTOPHER BURNS,

Defendant

May 20, 2014

TRANSCRIPT OF SUPPRESSION HEARING
BEFORE THE HONORABLE NORMAN K MOON
UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the United States:

U.S. Attorney's Office
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For the Defendant:

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Proceedings recorded by mechanical stenography;
transcript produced by computer.

1 THE COURT: Good afternoon.

2 Call the case, please.

3 THE CLERK: United States of America vs.

4 Les Christopher Burns, case #6:13cr22, defendant #10.

5 THE COURT: Government ready?

6 MS. NEESE: We are, Your Honor.

7 THE COURT: Defendant ready?

8 MR. SNOOK: Yes, Your Honor.

9 THE COURT: We'll take up the motion to
10 suppress first.

11 MS. NEESE: Your Honor, prior to taking up
12 the motion to suppress, just briefly, we filed a motion
13 under seal with the Court. If we want to take that up
14 today, I would like to do it under seal in the courtroom
15 as well. I don't think it's appropriate to take it up
16 today because the Court is already aware of that
17 information and I don't think it would be appropriate
18 for cross-examination either way at that point in time
19 because you're the fact finder in this and know
20 everything that's going on behind that.

21 THE COURT: We'll take up the motion to
22 suppress.

23 MR. SNOOK: Judge, I guess I filed the
24 motion. They've obviously filed their response.

25 THE COURT: The burden is --

1 MR. SNOOK: Beg your pardon?

THE COURT: The burden's on them.

3 MR. SNOOK: I don't have any sort of reply to
4 their response is all I was going to get at.

5 MS. NEESE: Your Honor, if defense counsel
6 wants, we will sequester the witnesses then.

7 MR. SNOOK: Yes, please.

8 MS. NEESE: We will have a case agent
9 sitting at the table.

10 THE COURT: Would all the persons here to
11 testify please stay out of the courtroom until you're
12 called into the courtroom? But remain close by.

13 (Witnesses left courtroom).

14 All right.

15 MS. NEESE: Your Honor, we would call Chris
16 Cook to the stand.

17 CHRIS COOK, CALLED AS A WITNESS BY THE GOVERNMENT, SWORN
18 DIRECT EXAMINATION

19 BY MS. NEESE:

Q. Please state your name for the record, sir, and
tell us how you're currently employed?

22 A. Chris Cook, deputy at Bedford County sheriff's
23 office.

24 Q. How long have you been employed as a law
25 enforcement officer?

1 A. For approximately 17 years.

2 Q. Prior -- or are you currently with Bedford
3 County, you stated?

4 A. That's correct.

5 Q. Prior to that, you were with Botetourt County?

6 A. Correct.

7 Q. How were you employed on March 27, 2013?

8 A. March 27, 2013, I was an investigator with
9 Bedford County sheriff's office.

10 Q. In what position? What type of investigator?

11 A. Vice unit, narcotics.

12 Q. Do you know the defendant here today, Les
13 Christopher Burns?

14 A. I do.

15 Q. How do you know him?

16 A. He is a defendant in this case. Also, he was a
17 confidential informant that worked for me.

18 Q. What was your role on March 27th of 2013? Just
19 give the Court an overview of what was happening that
20 day.

21 A. On March 27, 2013, we had in hand a federal
22 indictment for Mr. Burns' arrest. That morning, myself
23 and Deputy Jouett Reynolds and ATF Special Agent
24 Lockheed travelled to Mr. Burns' residence to effect
25 that arrest.

1 Q. Did y'all have anything else in your hand at the
2 time?

3 A. We also had a state search warrant from Bedford
4 City Police Department to be executed as well, which was
5 in reference to an insurance fraud that was being
6 investigated.

7 Q. Where was that search warrant supposed to take
8 place?

9 A. At 414 Franklin Street, Bedford City.

10 Q. Whose residence was that?

11 A. Mr. Les Burns'.

12 Q. Did anyone else live there at the time?

13 A. Tara Burns as well and their two children.

14 Q. What time, approximately, did you go to the
15 residence?

16 A. It was approximately -- it was probably a little
17 before 7:00 a.m. that morning.

18 Q. Explain to the Court what happened; from your
19 perspective.

20 Q. That morning, Ms. Burns left the residence and
21 was later stopped by several law enforcement officers;
22 sergeant John Wilkes, Bedford County sheriff's office;
23 ATF Special Agent Davidson, Russell Davidson; and the
24 Rack, Tom Gallagher, ATF. They stopped and made contact
25 with Ms. Burns. At that time, they advised Ms. Burns

1 that a federal indictment for Mr. Burns' arrest was in
2 hand and as well, a search warrant for the residence.

3 Q. Where were you during this stop?

4 A. At this point, I was just up the street in a
5 vehicle from Mr. Burns' residence, watching the
6 residence.

7 Q. What happened next, in your view?

8 A. The agents out with Mrs. Burns requested that she
9 call Mr. Burns and respond to that location. That was
10 done solely for the purpose of safely effecting the
11 arrest of Mr. Burns.

12 Q. Then what happened?

13 A. Well, she eventually called Mr. Burns and from my
14 understanding, he asked her questions, if she had been
15 pulled over and if he was going to be arrested. Shortly
16 after that, he did exit the residence and Deputy
17 Reynolds affected the arrest, took him into custody.

18 Q. Did you watch that?

19 A. I did. Myself and Special Agent Lockheed were
20 the cover officers during the arrest.

21 Q. What happened with Mr. Burns once he was
22 arrested?

23 A. Once Mr. Burns was arrested, he was taken to
24 Deputy Patrick Schrader's patrol vehicle. At that time,
25 I advised him of his Miranda warnings. He said he

1 understood his rights. I left along with Deputy
2 Schrader and returned back to the Bedford County
3 sheriff's office.

4 Q. Did you ride in the same vehicle with Mr. Burns?

5 A. No, I did not.

6 Q. Where were you heading at that time?

7 A. At that time, I travelled back to the Bedford
8 County sheriff's office to interview Mr. Burns.

9 Q. Did Mr. Burns state anything to you once he was
10 advised of his rights at that point in time?

11 A. Nothing more than he understood his rights.

12 Q. Once you got back to the Bedford County sheriff's
13 office, what happened?

14 A. Once back at the Bedford County sheriff's office,
15 we went to the conference room located to the front of
16 the sheriff's office and at that point, an interview
17 ensued after I again advised Mr. Burns of his Miranda
18 warnings.

19 Q. Be explanatory to the Court. Who went to the
20 conference room?

21 A. It was myself, AUSA Neese, and Mr. Burns was in
22 the conference room.

23 Q. Approximately what time was this?

24 A. Approximately 7:30, 7:40 a.m.

25 Q. Then what happened -- did Mr. Burns come into the

1 room?

2 A. Yes.

3 Q. Who brought him in there?

4 A. I'm assuming Deputy Schrader brought him into the
5 room. I met up with Deputy Schrader somewhere and
6 brought Mr. Burns into the conference room.

7 Q. What happened when you first sat down?

8 A. When we first sat down, I advised Mr. Burns of
9 his Miranda warnings and he stated that he understood
10 his rights and stated that he was willing to talk.

11 Q. Explain to the Court what the conference room
12 set-up is. Is that typically where you all interview
13 people who are arrested?

14 A. No. There's an interrogation room located within
15 the investigations unit, but that morning, we used the
16 conference room.

17 Q. Were there other things going on that day?

18 A. Yes. There were other indictments being served
19 and so --

20 Q. What type of indictments?

21 A. Federal indictments, for the Pain Train drug
22 conspiracy.

23 Q. So, more people were going to be arrested that
24 day?

25 A. That's correct.

1 Q. Was Mr. Burns the first one arrested that day?

2 A. I believe so.

3 Q. Why was that?

4 A. I don't know why Mr. Burns was the first one we
5 arrested, but --

6 Q. Did y'all have a search warrant for any other
7 place?

8 A. No, there was no other search warrants.

9 Q. Now, going back to the actual interview, once you
10 advised him of his Miranda rights and he agreed to talk,
11 what happened?

12 A. We -- well, we questioned Mr. Burns in reference
13 to the Pain Train and an interview ensued at that point.

14 He started off the interview by stating that he
15 had abused drugs for approximately ten years, different
16 types of illegal narcotics. He abused different types
17 of pain medications -- Dilaudid, oxycodone, methadone,
18 Suboxone, Ecstasy.

19 Q. What was your role in the Pain Train
20 investigation? Were you investigating a drug conspiracy?

21 A. That's correct.

22 Q. Were you the lead agent assigned to Mr. Burns?

23 A. Yes.

24 Q. Okay. Keep going.

25 A. Okay. So, he also stated that starting in 2010,

1 he began to distribute various types of drugs. He named
2 ten different people approximately that he was
3 distributing the drugs to.

4 Q. Did he name other people he got involved with in
5 this conspiracy?

6 A. He did.

7 Q. Tell us about that, sir.

8 A. All right. He named -- he stated that in
9 approximately 2010, he game involved with Bryant
10 Reynolds, who was also indicted in Pain Train. Prior to
11 that, he was involved with Scottie Andrews. Scottie
12 Andrews was purchasing Oxycontin, oxycodone pills from
13 Bryant Reynolds and then redistributing them to Mr.
14 Burns. Later on, Mr. Burns developed a relationship
15 with Mr. Reynolds. I believe it started off that Mr.
16 Burns sold a vehicle to Mr. Reynolds and in payment, he
17 received, I believe, \$1800 and ten, 80-milligram
18 Oxycontin tablets.

19 Q. Where did you get that information?

20 A. From Mr. Burns, during the interview.

21 Q. Now, let me ask you. Is Scottie Andrews also
22 charged in this?

23 A. He is.

24 Q. Tell us what happened next during the interview,
25 sir.

1 A. After we got through the different people that he
2 was distributing drugs to, different people that had
3 distributed drugs to him since 2010, he stated that he
4 knowingly injected a minor female approximately five
5 times, a year-and-a-half prior to the interview.
6 Injected her with Dilaudid tablets.

7 Q. Are you just giving a brief overview of what
8 happened during this interview?

9 A. I am.

10 Q. Explain to the Court how long this interview took
11 place.

12 A. The interview took place approximately 45 minutes
13 to an hour.

14 Q. What was the demeanor of Mr. Burns throughout
15 this time period?

16 A. He was forthcoming, cooperative.

17 Q. Did you have any problems with him whatsoever?

18 A. None.

19 Q. Did you ever threaten him in any way?

20 A. No.

21 Q. Did you ever ask him if he was lying?

22 A. Absolutely.

23 Q. Tell us about that, sir. Tell us about your
24 investigative experience with drug users and people that
25 you've arrested and how they usually cooperate once

1 they're Mirandized.

2 A. In my experience in interviewing people who abuse
3 drugs, once they're being questioned in reference to how
4 much of a drug they abuse, they tend to minimize. I
5 just thought a few times during the interview that he
6 possibly was minimizing. I asked him if he was lying
7 and we went on with the interview.

8 Q. Did he ever see anybody else during the course of
9 this part of the interview?

10 A. No.

11 Q. Ever see his wife?

12 A. Not during the interview, no.

13 Q. Had you talked to his wife at any point in time
14 prior to this interview?

15 A. No.

16 Q. At the end of the interview, what did you all
17 discuss?

18 A. I'm sorry. I don't know what you're asking.

19 Q. Did you have any communications with Mr. Burns
20 prior to March 27th of 2013?

21 A. Yes.

22 Q. Did you ever ask him if he had done anything
23 wrong?

24 A. Yes. We suspected Mr. Burns of stealing a
25 storage device card from us during a controlled purchase

1 when he was working for us. Prior to the interview, we
2 had met him, questioned him about it and he had denied
3 it. During this interview, he did admit to stealing the
4 storage device card from the device. Stated that he did
5 that because he had used during the controlled purchase.

6 Q. At a point in time -- did you talk about anything
7 else with him?

8 A. Yeah. He stated in 2011, in the summer of 2011,
9 he had met up with a Jonathan Bohon and at that time,
10 Mr. Bohon was purchasing Dilaudid tablets from a Tony
11 Abey. Mr. Burns had provided Mr. Bohon with currency in
12 order to purchase some of the Dilaudids. Later on that
13 day, Mr. Burns and Mr. Bohon met up. Mr. Burns injected
14 himself. He injected Mr. Bohon and Amanda McKinney.
15 Mr. Burns and Amanda McKinney left that location and
16 travelled back to Mr. Burns' residence where Mr. Burns
17 injected himself and Amanda McKinney again.

18 The following day, Mr. Burns attempted to make
19 contact with Mr. Bohon. However, a person by the first
20 name of Butch, last name unknown, answered Bohon's phone
21 and attempted to wake Mr. Bohon up. He didn't wake up.
22 I think Mr. Burns stated he called several times that
23 day trying to make contact with Mr. Bohon, Butch, last
24 name unknown. Was unable to wake him. Later on that
25 evening, Mr. Burns was informed that Mr. Bohon had

1 overdosed and died.

2 Q. Did you ever ask Mr. Burns about a firearm?

3 A. Asked Mr. Burns about a firearm that -- he stated
4 he had a Walther .22 caliber that he kept in a safe that
5 he had reported stolen from his residence. He stated
6 that he had discharged the firearm on several occasions,
7 after being a convicted felon and knowing that he was a
8 convicted felon.

9 Q. What happened once you concluded the interview?

10 A. Once the interview was concluded, I, at that
11 time, I believe I made contact with Mrs. Burns and
12 requested that she travel to the sheriff's office to be
13 interviewed.

14 Q. Tell us what happened next once Mrs. Burns was
15 interviewed. Or did she come to the sheriff's office?

16 A. She did.

17 Q. Tell us what happened.

18 A. Once Mrs. Burns came to the sheriff's office, she
19 was interviewed in reference to Mr. Burns' drug abuse,
20 distribution. She was questioned about her knowledge of
21 that. She stated that she knew --

22 Q. I'm going to interrupt you for just a second,
23 sir. How many times was Mrs. Burns interviewed on that
24 day?

25 A. She was interviewed twice.

1 Q. Tell the Court who interviewed her the first
2 time.

3 A. The first time, myself and AUSA Ashley Neese
4 interviewed Ms. Burns.

5 Q. Where did the interview take place?

6 A. It took place in the conference room, at the
7 sheriff's office.

8 Q. How long, approximately, was the interview?

9 A. It was approximately --

10 Q. Was it a long interview?

11 A. No, maybe 15, 20 minutes, I believe was how long
12 it lasted. It wasn't very long.

13 Q. Tell us about that.

14 A. During the interview, Ms. Burns stated that she
15 knew that her husband had illegally used drugs in the
16 past. She knew that he had injected himself with drugs
17 before, but that she had no knowledge of him
18 distributing drugs. She had no knowledge of his recent
19 usage of drugs.

20 Q. Were any threats made to Ms. Burns during this
21 time period?

22 A. No, ma'am.

23 Q. Tell us what else the interview was about.

24 A. She was questioned about the SD card, as well,
25 and she stated that she did have knowledge about the SD

1 card. She stated that her husband, Mr. Burns, told her
2 that he had taken the SD card during the controlled
3 purchase. Well, at first he told her there were
4 controlled purchases on the SD card and that he had
5 stolen the SD card because he had second thoughts about
6 working for the sheriff's office.

7 Q. How did that interview end?

8 A. (No response).

9 Q. Did you arrest her, sir?

10 A. No.

11 Q. Did you tell her she was free to leave at any
12 point in time?

13 A. Yes.

14 Q. Was she under arrest at any point in time?

15 A. She was never detained.

16 Q. Was she ever threatened in any way?

17 A. No.

18 Q. Did she get interviewed again?

19 A. She was.

20 Q. Was that right after the first interview?

21 A. Yes, I believe she, right after that, she was
22 interviewed by Detective Dryden.

23 Q. Sir, tell us about that. Did you stay in there?

24 A. I did stay in. Myself and AUSA Neese stayed in
25 basically as witnesses to the interview. At that time,

1 Detective Dryden conducted an interview in reference to
2 the insurance fraud that she was investigating.

3 Q. Who's Detective Dryden?

4 A. At that time, Detective Sarah Dryden was a
5 detective with Bedford Police Department.

6 Q. Did she have knowledge of who Mr. Burns was
7 before that day?

8 A. She did.

9 Q. How did she have knowledge of him?

10 A. I believe prior to being a detective, she had
11 conducted a traffic stop of Mr. Burns in Bedford City
12 and during that traffic stop found Mr. Burns to be in
13 possession of illegal narcotics.

14 Q. Is that how Mr. Burns became a confidential
15 informant working for you?

16 A. It is.

17 Q. Two days after he was stopped by her?

18 A. It is.

19 Q. Keep going on what happened during the interview,
20 the second interview with Ms. Burns.

21 A. During the second interview, Ms. Dryden just
22 basically asked Ms. Burns questions in reference to the
23 safe being stolen from their residence, which Mr. Burns
24 had reported to the police department. Ms. Burns stated
25 that there was \$1,800 U.S. currency in the safe; the

1 .22-caliber Walther handgun, and different documents
2 that were in the safe. She was asked -- she stated that
3 she did not believe the safe was actually stolen from
4 the house and stated that she had questioned her husband
5 on several different occasions if he, in fact, had
6 knowledge of the safe being stolen from the house, which
7 she stated that he denied.

8 Q. During this second interview, at any point in
9 time, was she threatened?

10 A. No.

11 Q. What did Detective Dryden tell her?

12 A. Detective Dryden stated that if she had knowledge
13 about any of the illegal activity going on in the
14 household that there would be -- that she could
15 potentially have her children taken away and she could
16 potentially possibly lose her job if she was not being
17 forthcoming and truthful about the circumstances.

18 Q. Did you ever talk to Ms. Burns that way?

19 A. No.

20 Q. Did you ever state anything like that to her?

21 A. No.

22 Q. Tell me this, sir. Did Ms. Burns leave the
23 conference room between the first interview and the
24 second interview?

25 A. No.

1 Q. Did she ever see Mr. Burns between the first
2 interview and the second interview?

3 A. No.

4 Q. What happened after the second interview, sir?

5 Wait. Was she arrested?

6 A. No, she was not.

7 Q. Was she free to leave?

8 A. She was.

9 Q. After the second interview, was she escorted out
10 of the sheriff's office?

11 A. Yes.

12 Q. What happened during that time period?

13 A. Mrs. Burns and Mr. Burns saw one another in the
14 hallway and she requested to speak with Mr. Burns, which
15 she did, for approximately one minute.

16 Q. What happened after that?

17 A. At that time, she left and Mr. Burns entered the
18 conference room again and was interviewed by Detective
19 Dryden.

20 Q. Tell us about that interview, sir. Were you
21 present during that interview?

22 A. I was present during the interview.

23 Q. Did you engage in that interview?

24 A. No, I did not.

25 Q. Tell us about it, sir.

1 A. During the interview, Detective Dryden asked
2 Burns questions about the safe, knowledge of who may
3 have stolen the safe, if he had any type of -- if he
4 participated in the safe being taken in order to collect
5 money from the insurance, illegally, and during the
6 interview, Mr. Burns denied any knowledge of any of
7 that.

8 Q. Was he ever threatened in any way?

9 A. No.

10 Q. Did he ever ask for counsel in either the first
11 or second interview?

12 A. He did not.

13 Q. Let me ask you this, sir. Was Detective Dryden
14 part of the federal drug investigation whatsoever?

15 A. She was not.

16 Q. Did you ever ask him any questions after the
17 first interview regarding his involvement in the drug
18 conspiracy?

19 A. I didn't.

20 Q. Did you record that interview on that day?

21 A. I did not.

22 Q. Either of the two interviews?

23 A. No.

24 Q. Did Detective Dryden record either of them?

25 A. No.

1 MS. NEESE: No further questions at this
2 time, Your Honor.

3 CROSS-EXAMINATION

4 BY MR. SNOOK:

5 Q. Mr. Cook, I'm just curious. I assume in the
6 interview room, you would be recording the interview;
7 correct?

8 A. No.

9 Q. I'm not talking about in the conference room, but
10 if you had done the interview in your designated
11 interview room, those are set up to record; correct?

12 A. There are recording devices in those interview
13 rooms where we could potentially record.

14 Q. Is there a reason why you didn't record the
15 interview with Mr. Burns?

16 A. It's just normal procedure.

17 Q. Normal procedure is to not record any interviews
18 with defendants.

19 A. That's correct.

20 Q. In all cases or just in drug cases?

21 A. In federal cases.

22 Q. Okay. So this is pursuant to the federal
23 Department of Justice policy that you don't record
24 interviews.

25 A. That's correct.

1 Q. You're aware that the federal Department of
2 Justice policy says that if you believed it to be
3 important, you can ask for permission to interview;
4 right?

5 A. I don't know that.

6 Q. Okay. Who made the decision not to interview?
7 I'm sorry. Who made the decision not to record?

8 A. I don't recall at any point that we told one
9 another that we weren't going to record it. We just
10 didn't.

11 Q. Okay. Because it's sort of your standard
12 practice not to record federal interviews.

13 A. That's my understanding, yes.

14 Q. This was even though you knew -- at that time,
15 you already had very clear suspicions that the defendant
16 here was somebody who had been trying to trick law
17 enforcement; isn't that right?

18 A. Yes, he had.

19 Q. And reasonably anticipating, therefore, if
20 there's anybody who's going to give you problems later
21 on, it would be somebody like him, you didn't think it
22 was important to record it?

23 A. No.

24 Q. Now, let me get a sense of the timing of all of
25 this. The original arrest was shortly after seven

1 o'clock; is that right?

2 A. That's correct.

3 Q. By what time did you get him back to the Bedford
4 County sheriff's office?

5 A. The interview started approximately 7:30, 7:40
6 a.m.

7 Q. Do you recall about what time that first
8 interview concluded?

9 A. Approximately 8:30, 8:40 a.m.

10 Q. Do you recall approximately what time it was that
11 Tara Burns arrived?

12 A. It began at approximately 8:45, 9:00 a.m.

13 Q. Meaning, the interview with her.

14 A. Correct.

15 Q. Do you recall about what time it was that you
16 called Tara and asked her to come to the Bedford County
17 sheriff's office?

18 A. From what I recall, it was after the interview,
19 the first interview with Mr. Burns.

20 Q. Okay. So that would be somewhere about 8:30,
21 8:45?

22 A. It could have been before the interview. I just
23 don't recall at what point I talked to her on the phone.

24 Q. You were pretty insistent that Ms. Burns had to
25 come to the sheriff's office that morning. You didn't

1 want to talk to her that evening when she suggested.

2 A. That's correct.

3 Q. And why was that?

4 A. At that point in time, we were conducting our
5 interviews and I wanted her to come to the office at
6 that time to be interviewed.

7 Q. In fact, you told her if she didn't come, you
8 would go get her, is that right?

9 A. I told her we could come pick her up, right.

10 Q. It wasn't just that if her car wasn't working,
11 you would go pick her up. It was, you were going to get
12 her. Either she was going to get herself there or you
13 were going to get her there.

14 A. I told her I could respond to her location and
15 give her a ride to the sheriff's office.

16 Q. Okay. And you knew she worked at a school.

17 A. Right.

18 Q. So, your plan was either she drives herself in or
19 you go to the elementary school where she's working, you
20 present yourself there and you bring her from there to
21 the sheriff's office. That was your plan. That's what
22 you told her; right?

23 A. I at no point had a warrant for Ms. Burns.

24 Q. I understand that. That's not my question.

25 A. No, I was not going to detain Ms. Burns and bring

1 her to the sheriff's office.

2 Q. Did you tell her that either she had to come
3 there on her own or you would go get her?

4 A. I told her if she wanted me to, I could respond
5 to her location and pick her up.

6 Q. Those were the only two choices. Either she
7 drives herself or, quote, if she wants to, you will go
8 pick her up at her place of employment.

9 A. We were negotiating. She stated that she did not
10 want to come to the sheriff's office at the time because
11 she had to work. I told her that myself and Ms. Neese
12 were at the office at that time and wanted to conduct
13 the interview.

14 Q. You told her basically that Ms. Neese was
15 breathing down your neck to get her there.

16 A. Which she probably was, yes.

17 Q. Okay. And she said -- she finally said, okay,
18 I'll come, let me go talk to my principal.

19 A. That's correct.

20 Q. So when she got there -- when she got to the
21 Bedford County sheriff's office, you say that was
22 9 o'clock? Did I get that from you? I'm trying to
23 remember. I'm not trying to put words in your mouth.

24 A. I believe the interview started at approximately
25 8:45, 9:00 a.m.

1 Q. You say that interview lasted about 45 -- 15 to
2 20 minutes.

3 A. Probably about, yeah, 15 to 20 minutes or so.

4 Q. Do you have any of these times noted or are you
5 sort of reconstructing as we go here?

6 A. Pretty much reconstructing. These are all
7 approximates.

8 Q. Now we're up to somewhere shortly after 9 o'clock
9 that this first interview was over and then Ms. Dryden
10 came in; is that right?

11 A. That's correct.

12 Q. Then Ms. Dryden and you and Ms. Neese talked with
13 her about the insurance fraud claim and about how long
14 did that last?

15 A. Detective Dryden questioned her at that time.
16 Ms. Neese and I were just there basically as witnesses.
17 It lasted, not long, maybe 15 minutes or so.

18 Q. So now we're up, getting close to 9:30. Is that
19 fair to say?

20 A. 9:30, 9:45, maybe close to 10, something like
21 that.

22 Q. Then Ms. Burns is leaving and as she's leaving,
23 she saw Chris Burns, asked to speak to him, they did for
24 a minute. You weren't there when they interacted?

25 A. I believe I probably was still in the conference

1 room at that time. I'm not sure.

2 Q. Where was Mr. Burns during the time Mrs. Burns
3 was being questioned?

4 A. I believe he was downstairs being processed by
5 the agents there. I don't know.

6 Q. Then after that brief encounter, Mr. Burns, Chris
7 Burns was brought back into the conference room and at
8 that point, interviewed again by Detective Dryden with
9 you and Ms. Neese present.

10 A. Correct.

11 Q. I'm just curious. Did you at any time get a
12 written Miranda waiver from Ms. Burns?

13 A. I did not.

14 Q. Now, during the first interview you had with Tara
15 Burns, you say that she said that she had known that
16 Chris Burns had been illegally using drugs and had been
17 illegally, obviously illegally, injecting himself with
18 drugs.

19 A. She said she had knowledge of him doing that in
20 the past.

21 Q. And you asked her about what she knew about any
22 sales and she denied knowing anything about any sales.

23 A. That's correct.

24 Q. In fact, you pressed her on that, didn't you, and
25 asked her, basically, you seemed to have a hard time

1 believing that she wouldn't have known what he was up
2 to.

3 A. I may have, yes.

4 Q. And in the course of that discussion, you told
5 her basically that if she was -- if she had knowledge of
6 and was participating in any way in his illegal
7 activities, she could also be charged.

8 A. I don't recall saying that.

9 Q. Do you recall discussing with her in that
10 interview the fact that if she knew of what he was doing
11 and knew of his illegal -- actually, let me ask you
12 this. Did you ask her about specific people that you
13 believe Chris Burns had been involved with?

14 A. She named a couple people in Pain Train that she
15 had seen her husband with.

16 Q. Some of those are people who have been charged
17 either state or federally.

18 A. Correct.

19 Q. When she mentioned that, mentioned those names,
20 you pressed her on what exactly she knew and what she
21 was aware of that Mr. Burns and they had been doing.

22 A. Sure. I asked if she had any knowledge of any
23 sales between them, if she had witnessed anything. She
24 said that she had no knowledge of anything.

25 Q. And at any time during that discussion, was there

1 -- during that interview, that first interview with Tara
2 Burns, was there any mention about losing her job,
3 losing her children, anything like that?

4 A. No, never.

5 Q. Was there any mention -- back up. Were you
6 present for any conversation with Tara Burns at the time
7 that she was pulled over at 7:00 in the morning?

8 A. I was not.

9 Q. You were basically -- you could see them in the
10 distance; is that right?

11 A. No.

12 Q. Did I misunderstand? I thought you said you could
13 see something in the distance. Maybe I was
14 misunderstanding. Seeing Mr. Burns' house in the
15 distance?

16 A. That's right.

17 Q. I gotcha.

18 Now, you said when you began the interview with
19 Mr. Burns, he was forthcoming, he was cooperative.
20 Those are adjectives that you used?

21 A. Yes.

22 Q. You mentioned that in your experience, it is
23 common for people in Mr. Burns' situation to lie or to
24 minimize.

25 A. That is correct.

1 Q. Did Mr. Burns lie or minimize to you?

2 A. He didn't retract what he said, so.

3 Q. Is that a yes or a no?

4 A. I don't know if he was lying or not. He didn't
5 retract his statements.

6 Q. I guess I'm -- is it your testimony that Mr.
7 Burns basically gave one consistent thread for the
8 entire 45 minutes to an hour and didn't change anything,
9 didn't backtrack, didn't add anything later on, didn't
10 have to be confronted to say, you're lying, you're
11 minimizing.

12 A. I don't recall him changing his statement at any
13 time, no.

14 Q. So maybe I'm misunderstanding the import of why
15 Ms. Neese was asking the question when she was asking
16 about your experience about how drug users and people
17 you're interviewing are often minimizing and you have to
18 confront them with the minimization.

19 A. Sure.

20 Q. But you didn't have to with him; is that what
21 you're saying?

22 A. He was confronted numerous times during this
23 interview about amounts of pills he was purchasing,
24 amounts he was using, but he never retracted his
25 statements.

1 Q. Okay. Was there anything that Mr. Burns said, and
2 I'm directing your attention -- I'm sure you have a copy
3 of the report of investigation that was done. I've got
4 discovery page numbers.

5 Are you familiar with this? Let me show it to
6 you.

7 (Document shown to witness).

8 Discovery 2142 and following.

9 A. That's correct.

10 Q. Although this doesn't seem to have your signature
11 on it anywhere, have you read this before?

12 A. I have.

13 Q. Does it accurately reflect the discussions that
14 were being held?

15 A. Yes.

16 Q. Is there anything that Mr. Burns ever said that
17 is in any way inconsistent with what is written down
18 here?

19 A. No.

20 Q. So, there would not -- if he was consistent about
21 quantities, for example, there was never a time when he
22 said, oh, instead of, let's say, receiving 100, 120
23 pills, he never said, oh, I only got 50 or 60 pills. It
24 was always that number used.

25 A. That's correct.

1 Q. Just a second, Judge.

2 (Counsel conferred with the defendant).

3 One other question, I guess.

4 The missing SD card we've heard a lot about, was
5 that supposedly for a particular transaction or a number
6 of transactions or what?

7 A. For one particular transaction, yes.

8 Q. What was the date of that transaction? Do you
9 know?

10 A. I don't have that in front of me.

11 Q. Do you know who the target was?

12 A. I do.

13 Q. Who was that?

14 A. The target that day was Tim Goodman and a
15 Samantha Hogan and Ms. Hogan's boyfriend, and I don't
16 recall his name at this time. Samantha Hogan was the
17 target who was going to supply Mr. Burns with the
18 heroin.

19 Q. And was that a transaction that was supposed to
20 have taken place December 28th?

21 A. I don't recall the day.

22 MR. SNOOK: Thank you.

23 REDIRECT EXAMINATION

24 BY MS. NEESE:

25 Q. Let's start with the SD card. Could there have

1 been more than one transaction on that card?

2 A. To my knowledge, there was not. What's proper
3 procedure for us to do is to transfer the controlled
4 purchase on to a disc. Sometimes there would be several
5 purchases that would build up and that was not
6 necessarily always done.

7 Q. Okay. So could there have been more than one?

8 A. There could have been.

9 Q. Did you charge anybody after that day?

10 A. No.

11 Q. Why not?

12 A. I don't --

13 Q. Did you have the evidence you needed?

14 A. I did.

15 Q. So you had the SD card then.

16 A. No, we never recovered the SD card.

17 Q. Does that maintain the controls in place, the
18 recordings?

19 A. I'm sorry. I thought you asked if I charged him
20 with the SD card. No, no one was charged with the
21 controlled purchases from that day.

22 Q. Do you have the recordings from that day?

23 A. I believe so.

24 Q. You do have the recordings?

25 A. There was other recording devices that Mr. Burns

1 had from that controlled purchase. Now, that purchase
2 was never -- he had a digital recorder as well, along
3 with another device.

4 Q. So you have recordings, including this SD card.

5 A. He did have a recording on a digital recorder.

6 Now whether those recordings were kept, I doubt because
7 no one was ever charged.

8 Q. All right. Let's move on.

9 Going back to March 27th of 2013, how many people
10 were arrested? More than one?

11 A. Yes.

12 Q. Were any of those post Miranda arrests recorded?

13 A. No.

14 Q. Are you sure it's federal policy to not record
15 any interview?

16 A. I just know it's normal procedure.

17 Q. Do you work with the FBI consistently?

18 A. No.

19 Q. Were you working with ATF?

20 A. Yes.

21 Q. Were you following what ATF was telling you?

22 A. I was.

23 Q. Now let's go back to the written Miranda waiver.
24 Anybody else sign a written Miranda waiver that day?

25 A. Not that I'm aware of.

1 Q. Did you all get other confessions that day?

2 A. Yes.

3 Q. You have your notes from that day, sir?

4 A. No.

5 Q. Tell the Court why not?

6 A. Everything that's on my notes went directly into
7 my report. Therefore, there was no use to keep my
8 notes.

9 Q. Do you do that as a standard practice?

10 A. Yes.

11 Q. I do want to ask you a few questions. Did you
12 keep this report?

13 A. No, I don't have it.

14 Q. Just following up on what Mr. Snook was stating
15 and what you stated on direct. Did he minimize at
16 certain points in time?

17 A. In my opinion, I thought he did minimize.

18 Q. Did you write down every time he minimized what
19 the pills were or did you write it down after he came
20 with what you thought to be clean?

21 A. What he -- his final statement is what I wrote
22 down.

23 MS. NEESE: No further questions, Your
24 Honor.

25 RECROSS-EXAMINATION

1 BY MR. SNOOK:

2 Q. So there were inconsistent statements.

3 A. I thought that he minimized.

4 Q. That wasn't my question. There were inconsistent
5 statements; yes or no?

6 A. I thought that I stated that there were, that I
7 thought he was minimizing.

8 Q. And you didn't write down in your report, the
9 earlier versions of what he said.

10 A. No, because we weren't done with that line of
11 questioning.

12 Q. So what y'all wrote down is a synthesis. It's
13 not a chronological sequence of what he said; correct?

14 A. That's correct.

15 Q. And there are things that he said -- you're
16 telling us now there are things that he said that were
17 inconsistent with what you wrote down in the report;
18 yes?

19 A. Yeah. At certain points during the interview, I
20 thought he was minimizing. We would stay on that topic
21 and he would give a final answer and that's what I would
22 put in my notes.

23 Q. Okay. So no one would ever know, because you
24 destroyed the notes and you made no recording, no one
25 would ever know about any inconsistent versions of

1 anything that he ever said; right?

2 A. I don't know what you're -- what's the question?

3 Q. I'm trying to figure out whether there's any
4 possible way that it would ever be known to anybody that
5 he had ever given an inconsistent version.

6 You testified, I thought, in my cross-examination
7 of you, that everything he said in that document -- that
8 everything you had written down in that document was
9 completely consistent, that he had not said anything
10 inconsistent with that document. Am I right? Did I
11 fairly characterize my question and your answer?

12 A. During an interview, we don't write down every
13 word that the person we're interviewing says. We'll get
14 on a topic and we'll ask him questions. If we don't
15 think that he's being forthcoming or he's being honest
16 or if he's minimizing, then we'll stay on topic until we
17 get to a point where it's his final answer.

18 Q. Okay. And nobody is going to know because you
19 don't record and you don't write down the intermediate
20 steps and you destroy your notes. Nobody is ever going
21 to know that he ever gave an answer less than what
22 you've got written down; correct?

23 A. There's just no way to conduct an interview that
24 way and write down notes about everything that anybody
25 says. It's just not possible. I wouldn't even be able

1 to read my own notes.

2 Q. And because you didn't ask for permission to
3 record, of course, we don't have any way of knowing what
4 actually happened along the way.

5 A. What actually happened is in my report.

6 Q. Except for the parts you didn't write down.

7 A. Except for the parts I thought Mr. Burns was
8 minimizing.

9 Q. So when you finally got to the answer that you
10 were happy with or that you were willing to accept, then
11 you wrote it down and that's what this report shows.

12 A. That's correct.

13 MR. SNOOK: That's all.

14 FURTHER REDIRECT EXAMINATION

15 BY MS. NEESE:

16 Q. I might have missed it, but where in the report
17 does it say he was threatened?

18 A. He was never threatened.

19 Q. At any point in time?

20 MR. SNOOK: Judge, this is beyond the scope
21 of my recross.

22 MS. NEESE: He's talking about the report,
23 Your Honor. He opened it up.

24 THE COURT: He didn't say anything about
25 threatened.

1 MS. NEESE: No further questions.

2 THE COURT: Is that all?

3 Thank you.

4 Any other witness?

5 MS. NEESE: Yes, Your Honor. We have Ms.

6 Tara Burns coming in and then we'll call Detective Sarah

7 Dryden.

8 TARA BURNS, CALLED AS A WITNESS BY THE GOVERNMENT, SWORN

9 DIRECT EXAMINATION

10 BY MS. NEESE:

11 Q. Good morning or good afternoon. Please state
12 your name for the record.

13 A. Tara Dawn Burns.

14 Q. Ms. Burns, are you the wife of Les Christopher
15 Burns, the defendant here today?

16 A. Yes.

17 Q. Do you have an attorney, ma'am?

18 A. Yes.

19 Q. What is her name?

20 A. Rhonda Overstreet.

21 Q. How long has she been representing you?

22 A. Half a year.

23 Q. Approximately six months or so?

24 A. (Indicating yes).

25 Q. Is that a yes?

1 A. Yes.

2 Q. Please say yes or no because the court reporter
3 is taking everything down.

4 Is it hard for you to be here today?

5 A. Yes.

6 Q. Do you want to be testifying?

7 A. No.

8 Q. Have you expressed that to myself, federal law
9 enforcement, your attorney and the defendant?

10 A. Yes.

11 Q. Have you been placed in this situation?

12 A. Yes.

13 Q. I'm going to ask you some questions, ma'am.

14 Were you contacted by the defense counsel?

15 A. Yes.

16 Q. Did you talk to your attorney first?

17 A. He said he had talked to her.

18 Q. Have you talked to her since then?

19 A. Yes.

20 Q. Would you tell us what was said? Did she know you
21 were meeting with him?

22 A. No, she did not.

23 Q. When was that, approximately?

24 A. That I met with him?

25 Q. Mr. Snook, yes.

1 A. May 3rd.

2 Q. A few days before this motion was filed?

3 A. Yes.

4 Q. Did he ever advise you he was going to file this
5 motion?

6 A. He said he was looking into a defense.

7 Q. Did you know about this motion before the United
8 States contacted you?

9 A. No.

10 Q. Do you remember March 27th of 2013?

11 A. Yes.

12 Q. If you would, please, let's talk about what
13 happened that morning. Did you get pulled over by law
14 enforcement?

15 A. Yes, I did.

16 Q. At approximately what time, ma'am?

17 A. It was probably 7, 7:15. It was shortly after 7
18 in the morning.

19 Q. Where did you get pulled over?

20 A. Right on the Bedford City, Bedford County line,
21 before it turns to 55, on 221, coming out of Bedford.

22 Q. How far away were you from your house?

23 A. Five miles, maybe.

24 Q. Not within distance, seeing distance of it.

25 A. No.

1 Q. Did you have anybody else in the car?

2 A. My two daughters.

3 Q. Tell us what happened when you were pulled over,
4 ma'am.

5 A. It was a big black four-by-four truck. An
6 officer came to the window and introduced himself. Said
7 that I wasn't in trouble, but they had a warrant to
8 search the house and needed me to call Chris and to tell
9 him that my car was broken down and I needed him to come
10 help me fix it. I said that I didn't want to lie and
11 they said that I needed to call him. So I called him.

12 Q. Did they tell you why you needed to call him
13 though, ma'am? What was the consequence if you didn't
14 call?

15 A. They were going to knock down the door.

16 Q. Because they had a state search warrant?

17 A. Uh-huh.

18 Q. Go ahead. I'm sorry.

19 A. So I called him and the officer stood by the
20 window. I told Chris that I needed him to come help me
21 and he kept asking why. I said -- I wouldn't lie to
22 him. I just kept saying I need you to come meet me, I
23 need you to come meet me. When I wouldn't tell a lie,
24 he figured out that I had been pulled over. He asked if
25 he came if he was going to be arrested. I said

1 probably. I didn't know at the time, but from the way
2 everything was going down, I figured he would be. Then
3 he asked if he didn't come if I was going to be in
4 trouble. Again, I said probably, because I was scared.

5 Q. Didn't you just testify that they told you, you
6 weren't in trouble?

7 A. Yes.

8 Q. Explain that to the judge, what you mean.

9 A. They were pressing me to call him and lie to him,
10 to get him to come out. Never being in trouble before,
11 being pulled, it --

12 Q. Did it make you uncomfortable?

13 A. Yes.

14 Q. Have you ever been in trouble?

15 A. No.

16 Q. Was this an uncomfortable position all day?

17 A. Yes.

18 Q. Tell us what happened next, ma'am.

19 A. He stood by the window a little bit and
20 throughout the course of being on the phone with Chris,
21 he kept telling me to hurry up and get him out of the
22 house. Finally, I hung up the phone and said he was on
23 his way. He stood there for a little bit. I don't know
24 how long, but a few minutes probably. He said he was
25 going to find out what was going on. Went back to the

1 truck. Probably two or three minutes later, he came and
2 said that he had been arrested and if I wanted to know
3 what was going on, they would tell me.

4 Q. Let me just stop you there. Who came back to the
5 truck?

6 A. The officer who had --

7 Q. And who had been arrested?

8 A. Chris.

9 Q. So you didn't actually speak to Mr. Burns.

10 A. Huh-uh, not after I hung up the phone.

11 Q. Did you talk to him at any point in time during
12 the course of the period he was being arrested?

13 A. From the time I called and told him to come help
14 me?

15 Q. Right.

16 A. No.

17 Q. Keep going.

18 A. So then I stepped out of my car because again, my
19 two kids were in the back seat. I didn't want them to
20 hear what was going on because obviously, this was not a
21 good situation that a four and five-year old needed to
22 be listening to, or four and six. She had just turned
23 six. So I go to in between the truck and my car and
24 they told me that they had arrested him and that he had
25 been shooting up or he had shot up a 16-year old girl

1 and that he was playing both sides of the field, that he
2 was going back and forth between law enforcement and the
3 other people and he was in trouble and they were
4 searching the house.

5 After that, I got back in my car -- or they told
6 me that he would be going to Roanoke and he could call
7 me later when he got there. One of the officers gave me
8 his card in case I had any questions so that I could
9 call him and find out what was going on. I left there
10 and --

11 Q. Were you free to leave?

12 A. Yes.

13 Q. Did anybody ever say you were going to be
14 arrested?

15 A. No.

16 Q. For obstruction of justice?

17 A. No.

18 Q. Keep going, ma'am.

19 A. I left. I took my youngest daughter to my
20 grandparents' house. They watched her during the day
21 for me to go to school and do my student teaching and
22 then to work. Then I took the oldest to school. She
23 was in kindergarten. About the time I was pulling into
24 the parking lot at my work, I got a call from Officer
25 Cook saying I needed to come in because they needed to

1 question me.

2 Q. How long, approximately, after you were free to
3 leave the scene?

4 A. About an hour.

5 Q. So do you know approximately what time you left
6 the scene?

7 A. Probably 7:20 to 7:30.

8 Q. Approximately 7:20 to 7:30?

9 A. Uh-huh.

10 Q. You were able to leave?

11 A. Uh-huh.

12 Q. About an hour later, you get the call,
13 approximately?

14 A. Approximately.

15 Q. Okay.

16 A. Saying that I need to come in because they had
17 questions. I asked if I was in trouble. He said it
18 depends on how I answer the questions. I said can we do
19 this after I get off work, I just pulled into the
20 parking lot. He said no, I have the Assistant U.S.
21 Attorney breathing down my neck, I need you to come in.
22 I said, can you meet me in Lynchburg, I just left
23 Bedford and I'm here in Lynchburg. No, I need you to
24 come here to Bedford.

25 We went back and forth. He told me several times

1 I could drive myself or he would send someone for me,
2 someone to pick me up and drive me. I told him I was
3 responsible for the kids in my class, I couldn't just
4 get back in my car and drive off and what was I to tell
5 my boss? He said, well, tell her it's a family
6 emergency because that's what it is.

7 So I go inside. He told me to call when I was on
8 the way.

9 Q. Did you consider it a family emergency at that
10 point in time?

11 A. Yes.

12 Q. Was your husband arrested?

13 A. Yes.

14 Q. Were you allowed to talk to him while you were on
15 the phone with Investigator Cook?

16 A. No.

17 Q. Did you have any communication with him during
18 this time period?

19 A. No.

20 Q. Keep going, ma'am.

21 A. So I go into work and I go to the assistant
22 principal's office and when I got there, I started to
23 try and tell her I needed to leave for a family
24 emergency and I just started crying. Once I calmed
25 down, I explained to her what was going on so that if

1 something should happen, someone at the school would be
2 aware of what was going on. She told me I could take
3 the whole day off. I said no, I want to come back. I
4 just need a half a day. I need to go, but I'm going to
5 come back. She said, well, if I need to take the whole
6 day just to let her know and they would have my class
7 covered.

8 So on the way out to Bedford, I called my
9 mother-in-law and I told her what had happened and --

10 Q. Your mother-in-law is who?

11 A. Gina Smith.

12 Q. Is that Mr. Burns' mother?

13 A. Yes.

14 Q. Okay.

15 A. She asked if I wanted her to meet me out there
16 and I said yes because I was scared. I didn't want to
17 go in by myself. She met me out there at the police
18 station and we sat in the waiting room together. Then
19 when I was called back, she was not allowed to go with
20 me.

21 I went into the conference room and I was asked
22 about Chris, about his drug habits.

23 Q. Let me stop you there. When you first came back,
24 who was in the conference room?

25 A. You and Detective Cook.

1 Q. Anyone else?

2 A. There might have been one other. I don't
3 remember.

4 Q. Was Detective Dryden there yet?

5 A. No.

6 Q. Before you came in that conference room, were you
7 allowed to talk to Mr. Burns?

8 A. No.

9 Q. Go ahead.

10 A. I was questioned about the break-in at our house
11 where the safe was stolen.

12 Q. You were first questioned about his drug use and
13 abuse?

14 A. Yes.

15 Q. Will you tell us about that, what you were
16 questioned about?

17 A. What did I know he had done; did I know he was
18 selling; did I know he was using.

19 Q. Were you advised of anything during this time
20 period?

21 A. Not to lie.

22 Q. Were you ever threatened in any way?

23 A. No.

24 Q. Did anybody ever say you were in trouble, ma'am?

25 A. No.

1 Q. Keep going. I'm sorry. Was the interview about
2 you or was it about Mr. Burns?

3 A. Mr. Burns.

4 Q. Keep going.

5 A. The questioning went back and forth between his
6 drug use and people he knew and the break-in at our
7 house with the safe.

8 Q. Let me ask you this real quick. The people he
9 knew, were you asked about specific people?

10 A. I believe so.

11 Q. Do you remember any names?

12 A. No.

13 Q. Let me ask you this. Were you friends with his
14 friends?

15 A. No.

16 Q. Did you know everything that was going on?

17 A. No.

18 Q. Did you tell us that?

19 A. Yes.

20 Q. Keep going.

21 A. I was repeatedly told not to lie. Then I guess
22 it lasted for about an hour and I was allowed to leave.

23 Q. Let me ask you. The whole thing lasted an hour
24 or just the first part of the interview?

25 A. I think around the first part of the interview.

1 Q. Did you have a second interview with Detective
2 Dryden?

3 A. Yes.

4 Q. Do you consider that all one event?

5 A. I consider the whole thing one event, but it was
6 two separate interviews.

7 Q. Did you ever leave the conference room?

8 A. Yes.

9 Q. Okay.

10 A. I left and I went back out to the waiting room.
11 My mother-in-law had went out to her car and we sat in
12 her car for a few minutes. While I was in her car, I
13 got a call saying I needed to come back in, they had a
14 few more questions. So I come back in and I get called
15 to the conference room and Officer Dryden was in there
16 at that point. She immediately started off that she was
17 going to take my kids and my job.

18 Q. I'm going to stop you before we get to that
19 point. Between that time period, did you ever talk to
20 Mr. Burns?

21 A. No.

22 Q. Keep going. So what happened as soon as you come
23 in the room?

24 A. She started off with that, my kids and my job
25 would be taken.

1 Q. What was that in reference to?

2 A. I asked her why, and she said because there had
3 been needles and drugs at the house.

4 Q. Did you know about that stuff?

5 A. No.

6 Q. Did she ask you then later about that?

7 A. Yes.

8 Q. Did it calm down at that point in time?

9 A. Yes. To start off with that, it shook me up.

10 Q. Were you arrested?

11 A. No.

12 Q. Were you ever threatened to be arrested?

13 A. No.

14 Q. Were you ever threatened by Detective Dryden,
15 Investigator Cook or myself in any way?

16 A. Just that one, starting off with the kids and my
17 job.

18 Q. By Detective Dryden.

19 A. Uh-huh.

20 Q. And you felt that was threatening because you
21 didn't know what was going on; is that correct?

22 A. Yes.

23 Q. Keep going.

24 A. Most of her questioning was centered around the
25 break-in because she was investigating the safe being

1 stolen.

2 When that interview was over, I stepped out and
3 Chris was coming up the hall and being brought into the
4 conference room. We were allowed a minute, couple
5 minutes to talk. As soon as I started saying he was in
6 a lot of trouble and things were going on, I was told I
7 needed to leave and I was allowed to give him a hug.
8 Then I left.

9 Q. Detective Dryden say anything to you while you
10 gave him a hug?

11 A. She said, oh, come on, but --

12 Q. Okay. Did you ever tell him you were threatened
13 in any way?

14 A. I believe I told him the threat Dryden made.

15 Q. That's how you perceived it; correct?

16 A. Yes, that's how I perceived it.

17 I left there. I believe that I went by the house
18 and saw the house was torn apart. From there, I went
19 back to work and finished the rest of the day there. I
20 got there right at half a day. I got there right around
21 12 or a little after and finished up the rest of the day
22 and went and got the kids.

23 Q. Were you ever contacted by law enforcement after
24 that?

25 A. Not for a while.

1 Q. When was the first time you were contacted by law
2 enforcement?

3 A. After, when I got the subpoena to come in as a
4 witness.

5 Q. Is that for the November trial that was
6 originally scheduled?

7 A. I think so, yes.

8 MS. NEESE: No further questions at this
9 time.

10 THE COURT: All right.

CROSS-EXAMINATION

12 BY MR. SNOOK:

13 Q. Ms. Burns, do you remember talking with me
14 shortly after I was appointed to represent Chris, by
15 phone?

16 A. Yes.

17 Q. You told me at that point that you were
18 represented by Ms. Overstreet.

19 A. Yes.

20 Q. I told you I would call Ms. Overstreet before we
21 did anything further.

22 A. Yes.

23 Q. Did you ever talk with Ms. Overstreet after I had
24 talked with her?

25 A. I believe so.

1 Q. Okay. Then at various points over the next few
2 months, I called you some other times and you called me
3 a few times and I was trying to get together to meet
4 with you just to talk about the case; right?

5 A. I believe we talked two, maybe three times.

6 Q. There were calls in particular around the weekend
7 of March 14, 15, when I was trying to see if I could
8 work things out when I was going to be down in the
9 Roanoke area for various reasons and it didn't work out;
10 is that right?

11 A. I guess.

12 Q. You're shaking your head. Is that yes or no?

13 A. I don't remember.

14 Q. Then shortly before May 3rd, which was a
15 Saturday, and May 3rd was the day we actually met,
16 shortly before that, a few days before that, I called
17 you because I told you I was going to be down in the
18 Lynchburg area, over that weekend and I'd be meeting
19 with Chris and trying to meet with various other
20 witnesses, including some clients on unrelated matters.

21 A. Yes.

22 Q. I asked if we could get together and in
23 particular, there were some questions -- I don't
24 remember now, but I had questions for you, you had
25 questions for me or both ways, about some pictures;

1 right?

2 A. Yes.

3 Q. You wanted me in particular to bring the pictures
4 to you so you could see what was being discussed.

5 A. Yes.

6 Q. Then we had a couple of phone calls and
7 eventually it worked out and I think we met at 2 o'clock
8 in the afternoon in a restaurant parking lot or parking
9 lot adjacent to a restaurant in Bedford?

10 A. Yes; it was 3 o'clock.

11 Q. That could well be, okay.

12 After that or as we got there, eventually, you
13 came and you sat in my car while we talked for half an
14 hour or so.

15 A. Yes.

16 Q. In the course of that interview, we discussed --
17 you asked me about the pictures and at one point, I did,
18 in fact, show you some pictures. But then we also -- I
19 had asked you just generally why it was that you were
20 being involved as a witness.

21 A. Yes.

22 Q. And part of what came out of that, we were
23 talking about the substance of what you had said in your
24 interview in November with the law enforcement folks and
25 Ms. Neese and others and using that as the basis for the

1 questioning. Do you remember that we were talking along
2 those same lines?

3 A. Yes.

4 Q. And in the course of that interview, that
5 conversation you and I were having, I asked you
6 specifically about the events of the arrest; right?

7 A. Yes.

8 Q. And you told me at that point that you had been
9 pulled over a few blocks from your home, that you were
10 directed to call the defendant, directed to tell him you
11 had car trouble, he needed to come. You told them you
12 weren't going to do that, you weren't going to lie to
13 your husband.

14 A. Yes.

15 Q. You told me that day, on Saturday, May 3rd, that
16 you had been threatened with prosecution for obstruction
17 of justice, among other possible crimes, if you refused.
18 Do you remember telling me that?

19 A. No.

20 Q. You did not tell me that.

21 A. I don't remember telling you that, no.

22 Q. Faced with those threats, you called your husband
23 and just told him he needed to come where you were and
24 as soon as he stepped out of the house, he was arrested?

25 MS. NEESE: I object to the questioning.

1 He's assuming something she didn't answer to. She just
2 said she wasn't threatened.

3 THE COURT: Sustained.

4 MR. SNOOK: I'll retract the question.

5 BY MR. SNOOK:

6 Q. As a consequence of the conversation you had --
7 let me ask you this. When you were talked to by
8 the officers at the scene, were you -- did you feel,
9 regardless of what they might have said, did you feel as
10 though you were under some threat?

11 A. Yes.

12 Q. And in particular, you felt as though you were
13 under a threat if you didn't do what they wanted you to
14 do.

15 A. Yes.

16 Q. And that, you communicated to me, did you not?

17 A. Yes.

18 Q. And when you called Chris and you didn't lie to
19 him, you just asked him to come, he asked you, am I
20 going to get arrested?

21 A. Yes.

22 Q. And you said probably or something like that.

23 A. Yes.

24 Q. And he asked you, if I don't come, are you going
25 to be arrested, and you said probably.

1 A. Yes. He said, are you going to be in trouble,
2 not arrested. He asked if I was going to be in trouble.

3 Q. Okay.

4 Then you went on dropping children off and going
5 to your job as a teacher.

6 When you got to the school, you got a call -- for
7 your job, you got a call from the sheriff's office, told
8 to come down to the sheriff's office right away.

9 A. Yes.

10 Q. And when you said basically, can we do this in
11 the afternoon, they said no, it's got to be right now.
12 I've got the U.S. Attorney breathing down my neck.

13 A. Yes.

14 Q. At that point, you were offered a choice. Either
15 you go on your own or they were going to come get you.

16 A. Yes.

17 Q. There was no third option.

18 A. No.

19 Q. It wasn't a negotiation?

20 A. Yeah, it was two options.

21 Q. You recall about what time it was that you had
22 gotten to the school and about what time you got that
23 call?

24 A. It was probably around 8:15, 8:25, because I was,
25 with being pulled over, I was a little bit late. So it

1 was about an hour. It took an hour to drop both kids
2 off and get to work when I left.

3 Q. So if everything had gone normally, you would
4 have expected to have been at work by 8:15?

5 A. Yes.

6 Q. And you were delayed roughly ten minutes.

7 A. Yes.

8 Q. By 8:25 or so, you're getting this call from the
9 sheriff's office saying come on down?

10 A. Yes.

11 Q. You go inside, talk to the principal and explain
12 the situation to the principal.

13 A. Yes.

14 Q. You say okay, I'm driving to Bedford County
15 sheriff's office. How long did it take you to get to
16 the sheriff's office from your school?

17 A. Probably took 30, 45 minutes.

18 Q. So now we're talking about 9:15, 9:30.

19 A. Probably.

20 Q. Is that about the time you remember having gotten
21 to the sheriff's office?

22 A. I don't remember the time I got there.

23 Q. You don't remember specifically.

24 A. No.

25 Q. How long do you think you had to sit and wait

1 before you went and talked to the officers?

2 A. Probably about five, ten minutes.

3 Q. So -- I say officers. You actually talked with
4 Officer Cook and with Ms. Neese.

5 A. Yes.

6 Q. Then the conversation -- if we have you there --
7 I'm trying to keep up with my chronology of things. We
8 have you there about 9:30, maybe talking to them about
9 9:40 or so. Does that sound about right?

10 A. I suppose.

11 Q. About how long did that conversation last? I'm
12 talking about the first piece before you went out to the
13 car.

14 A. Probably about 45 minutes to an hour.

15 Q. Then that conversation was over. You go out to
16 the car with Gina Smith.

17 A. Yes.

18 Q. You're sitting there in the car. The phone rings
19 and they say I want to talk to you again.

20 A. Yes.

21 Q. How long had you been sitting in the car?

22 A. About five minutes or so. Not very long.

23 Q. Had you been told at that point we're done with
24 you, go on about your business? Or had they told you to
25 stand by, we might want to ask you more questions?

1 A. They said that I was free to go. I just hadn't
2 left the parking lot. We were still just sitting there,
3 talking.

4 Q. So it was really just by happenstance you were
5 still there.

6 A. Yes.

7 Q. They call you back and say come back, we want to
8 talk to you some more, and you have another conversation
9 with Detective Dryden as well as with Ms. Neese and
10 Officer Cook.

11 A. Yes.

12 Q. How long did that second conversation last? Do
13 you recall?

14 A. I don't recall. After the opening comments, I
15 wasn't focusing very well on the rest of the interview.

16 Q. So after the opening comments of the second part
17 of the interview about possibly taking away your kids
18 and possibly losing your teaching certificate and
19 everything else, the rest is a little blurry?

20 A. Yes.

21 Q. Now, when you got to the opportunity finally to
22 talk to Chris, you say you were both in the hallway sort
23 of at the same time, almost by accident apparently.

24 A. Yes.

25 Q. Tell us about that conversation.

1 A. It was a short conversation. I asked if I could
2 speak with him. I was told to make it quick. As soon
3 as I started saying they threatened to take the kids, I
4 was cut off and told -- telling him he was in a lot of
5 trouble and I didn't know what was going on. Then I was
6 told that I need to go. I asked if I could give him a
7 hug and Officer Dryden wasn't too happy about it, but
8 she let me give him a hug and then said, oh, come on,
9 and I had to leave and that's when I left.

10 Q. During the quick conversation there, you were
11 able to tell Chris that you had been threatened with
12 having the kids taken away; right?

13 A. Yes.

14 Q. Did you tell him that you were being threatened
15 with having your job taken away?

16 A. I believe so.

17 Q. Did you tell him they were threatening you with
18 possible prosecution of any sort?

19 A. No.

20 Q. Now, when you were asked -- I guess -- when you
21 talked to the officer -- was it Officer Cook who had
22 called you and asked you to come back to the sheriff's
23 office?

24 A. The second time?

25 Q. No; when you were at the school.

1 A. Yes, it was Officer Cook.

2 Q. At that point, you asked him whether you were in
3 trouble and his answer was, it depends on your answers.

4 A. Yes.

5 Q. What did you take that to mean?

6 A. That if I gave answers that they didn't like that
7 I could be in trouble. Or if they found out that I knew
8 something, I could be in trouble.

9 Q. So in the course of the conversation that you had
10 with him, they were asking what did you know about
11 selling, in particular, and you said you didn't know
12 anything about any selling activities. You knew about
13 some drug use in the past.

14 A. Yes.

15 Q. Is it fair to say that they didn't believe you
16 when you said you didn't know about any selling
17 activities?

18 A. That was my impression. I was told not to lie,
19 repeatedly. That was my impression.

20 Q. When you were asked about specific people and
21 whether you knew about Chris's activities with those
22 specific people, you said you didn't know.

23 A. Yes.

24 Q. And they didn't seem to want to believe that
25 either, did they?

1 A. No.

2 Q. And they challenged you and basically said, don't
3 lie to us when you gave those answers.

4 A. Yes.

5 Q. Given what was -- what had been said to you about
6 how it would depend on what your answers were and
7 whether they thought you were lying, how did that whole
8 thing make you feel about whether you were free from
9 prosecution?

10 A. I was scared, not being believed when I'm telling
11 the truth and being told not to lie. I was scared.

12 Q. During the brief minute or so that you had with
13 Chris, were you able to tell him anything about that?

14 A. Just the beginning. Like I said, about the kids
15 and my job. I wasn't able to tell him anymore about
16 them not believing me. I think those came later on in
17 visits and phone calls.

18 Q. One other thing. Also on the day we met on
19 May 3rd, you gave me Chris' wedding ring and asked that
20 I give it to him?

21 A. No. He asked me to give it to you and I gave it
22 to you.

23 Q. Right. And you didn't give it to me with the
24 expectation I would try to give it to him?

25 A. It was with the expectation. I didn't think you

1 would keep it.

2 Q. This is it; right?

3 A. As far as I can see.

4 (Said ring shown to witness).

5 Yes.

6 MR. SNOOK: I'll state for the record,

7 Judge, the jail wouldn't let me give it to him.

8 Thank you. That's all I have.

9 REDIRECT EXAMINATION

10 BY MS. NEESE:

11 Q. I just want to clarify some things. When you
12 were stopped by law enforcement, was Investigator Cook
13 there?

14 A. I don't believe so.

15 Q. Was I there?

16 A. No.

17 Q. Did you ever tell him that you were threatened by
18 us on May 3rd of 2014, when you talked to him?

19 A. No.

20 Q. Either Investigator Cook or myself?

21 A. No.

22 Q. Did you have the opportunity to read this motion
23 that he filed?

24 A. Yes.

25 Q. What did you state about it?

1 A. That he took a lot of things that I said out of
2 context. He added a lot of things to them and twisted
3 part of what I said.

4 Q. Let me ask you this, ma'am. When you were
5 stopped by law enforcement in the black truck and the
6 three officers you were talking about, you just talked
7 on cross-examination about the phone call you made to
8 Chris and that he was probably going to be arrested; is
9 that correct?

10 A. Yes.

11 Q. And he said, if I don't come, are you going to be
12 in trouble, and you said probably; is that correct?

13 A. Yes.

14 Q. Did you ever say anything about losing your job
15 then?

16 A. No.

17 Q. Did you ever say anything about losing your kids?

18 A. No.

19 Q. Did anybody even tell you that then?

20 A. No.

21 Q. Did you have conversation with him about that
22 before you saw him in the hall?

23 A. No.

24 Q. You kept talking about the opening comments of
25 that second interview. You said "they." Who stated

1 that?

2 A. Officer Dryden.

3 Q. Did Investigator Cook ever say anything like
4 that?

5 A. No.

6 Q. Did I ever say anything about that?

7 A. No.

8 MS. NEESE: No further questions, Your
9 Honor.

10 THE COURT: We'll take about a five-minute
11 recess before we call the next witness.

12 (Recess at 2:50 p.m. until 2:55 p.m.)

13 MS. NEESE: Your Honor, I'll wait for the
14 defendant and then we have a matter to address briefly
15 just to see if Ms. Burns can be excused at this point in
16 time because she was going to leave.

17 THE COURT: Does anyone need her back?

18 MR. SNOOK: I don't.

19 MS. NEESE: Your Honor, just briefly.

20 Ms. Overstreet is still here with her
21 client. She's free from our point.

22 MR. SNOOK: We have no further questions.

23 THE COURT: She's free to leave then.

24 Thank you, Ms. Overstreet.

25 MS. NEESE: We'll call Detective Sarah

1 Dryden to the stand.

2 SARAH DRYDEN, CALLED AS A WITNESS BY THE GOVERNMENT,

3 SWORN

4 DIRECT EXAMINATION

5 BY MS. NEESE:

6 Q. Good afternoon, ma'am. Thank you for being here.

7 Please state your name for the record.

8 A. Sarah Dryden.

9 Q. How are you currently employed?

10 A. B&W Police Department.

11 Q. You're still in law enforcement?

12 A. Yes.

13 Q. On March 27th of 2013, ma'am, how were you
14 employed?

15 A. Bedford City Police Department.

16 Q. Were you a detective there?

17 A. Investigator detective; same thing.

18 Q. What kind of employment duties did you have being
19 an investigator and detective?

20 A. I was assigned cases that the road couldn't
21 handle. I would look into different cases as far as
22 burglaries, drug investigations, different things like
23 that.

24 Q. If you would, did you receive a phone call that
25 morning?

1 A. Yes, I did.

2 Q. Did you already -- do you know the defendant
3 here?

4 A. I do.

5 Q. Have you dealt with him on numerous occasions?

6 A. Yes, I have.

7 Q. If you would, please, tell us at that point in
8 time, did you have an open investigation regarding an
9 alleged breaking and entering that happened at Mr.
10 Burns' residence?

11 A. Yes, I did.

12 Q. Tell us about that, if you don't mind, just
13 briefly.

14 A. Mr. Burns had advised Bedford City Police
15 Department that his house had been broken into and
16 several -- I believe a gun and money and a safe had been
17 stolen.

18 I had information from a confidential informant
19 that he was bragging that he had staged that break-in.

20 Q. So what happened when you received the call on
21 March 27, 2013?

22 A. I was advised by my lieutenant that Bedford
23 County was doing a search warrant at his house. He
24 asked me to respond and assist with Bedford County. I
25 did that in reference to my open case in the city.

1 Q. Do you remember approximately what time you got
2 there, ma'am?

3 A. It would have been a little bit after eight,
4 probably.

5 Q. Did you -- you weren't the lead agent at that
6 point in time. You weren't seizing items from the
7 house, were you?

8 A. No, ma'am.

9 Q. Was Mr. Burns there at the time?

10 A. No, ma'am.

11 Q. Do you know where he was?

12 A. I believe he was at the sheriff's office.

13 Q. Now, how long did you stay at the scene,
14 approximately, if you can remember?

15 A. Probably about an hour.

16 Q. Then after 9 or so, what happened, 9, 9:15?

17 A. I responded to the sheriff's office.

18 Q. What was your duties in responding there?

19 A. The reason I wanted to go there was to interview
20 Ms. Tara Burns and Mr. Burns in reference to my open
21 case.

22 Q. I'll ask you just briefly. At any point in time,
23 were you part of the federal drug investigation?

24 A. No.

25 Q. Did you know all the facts of it?

1 A. No.

2 Q. Now, what happens when you first get to the
3 Bedford County sheriff's office?

4 A. Ms. Burns was in a conference room, along with
5 Mr. Cook and yourself, and I proceeded to interview her
6 in reference to the burglary at Mr. Burns' house.

7 Q. You had just been at the house, right?

8 A. Yes, ma'am.

9 Q. Did you see items that were being retrieved or
10 seized from the house?

11 A. Yes, ma'am.

12 Q. What all types of items did you see?

13 A. Phones. I believe there were narcotics that were
14 seized. Maybe a computer.

15 Q. When you first came in the room, did you talk to
16 Ms. Burns about what all was being taken from the
17 residence?

18 A. I did.

19 Q. Will you tell us about that?

20 A. I advised Ms. Burns if she had any involvement in
21 my open case that she needed to be truthful. The house
22 was in complete disarray. She has two small children.
23 I advised her if she was lying about anything as far as
24 to do with the burglary that Mr. Burns had supposedly
25 falsely reported that she could be in a lot of trouble.

1 Q. Did you tell her anything about her kids and her
2 job?

3 A. Yes.

4 Q. Was that -- did you ever say you were going to be
5 arresting her that day?

6 A. No.

7 Q. Were you just trying to interview her?

8 A. Yes.

9 Q. Did you ever tell her she was under arrest?

10 A. No.

11 Q. What else happened in the interview?

12 A. We talked about basically the burglary. It maybe
13 lasted 15 minutes.

14 Q. Was that your portion of the interview?

15 A. That was.

16 Q. Was that basically a conversation between you and
17 Ms. Burns?

18 A. Yes.

19 Q. Was Investigator Cook in there?

20 A. Yes.

21 Q. Was myself in there?

22 A. Yes.

23 Q. What happened following that interview, ma'am?

24 A. I was fairly confident she didn't have anything
25 to do with it and I didn't need to speak with her any

1 longer. We walked out of the interview room and Mr.
2 Burns was in the hallway. Ms. Burns asked to speak with
3 him briefly and they did. Then I interviewed Mr. Burns
4 after that.

5 Q. Tell us about that. What happened next? Does he
6 come into the conference room?

7 A. Yes.

8 Q. Did you record that interview?

9 A. No.

10 Q. Did you conduct that interview?

11 A. Yes.

12 Q. What was that interview about?

13 A. That interview was about the burglary that he had
14 reported.

15 Q. Did you ever talk to him about the drug
16 investigation?

17 A. No.

18 Q. Did you ever threaten him in any way?

19 A. No.

20 Q. Did you ever say he was under arrest for anything
21 regarding his activities in Bedford City?

22 A. No.

23 Q. How long did you state that lasted?

24 A. Maybe 15, 20 minutes.

25 MS. NEESE: No further questions, Your

1 Honor, at this time.

2 CROSS-EXAMINATION

3 BY MR. SNOOK:

4 Q. Officer Dryden, your current employment is with
5 who?

6 A. B&W Police Department.

7 Q. So, were you doing the primary investigating on
8 the breaking and entering allegation?

9 A. Yes.

10 Q. Did you get the search warrant for the Burns'
11 house?

12 A. No.

13 Q. Who did get the search warrant? Do you know?

14 A. Bedford County.

15 Q. Was the search warrant specifically looking for
16 things pertaining to the breaking and entering?

17 A. No.

18 Q. Was it looking for things -- was it looking for
19 things pertaining to drugs, as far as you know?

20 A. I don't know what the search warrant was for, as
21 far as itemized.

22 Q. Who was the lead agent getting -- doing the
23 search warrant?

24 A. I'm not for sure.

25 Q. Who was the lead agent doing the search?

1 A. I believe it was federal agents. I don't know.
2 There were several of them there.

3 Q. You were there 45 minutes or an hour?

4 A. Yes, sir.

5 Q. Who seemed to be in charge?

6 A. There was a Deputy Reynolds. I can't think of
7 the other gentleman's name that was there.

8 Q. So when you saw Tara Burns at the sheriff's
9 office -- first of all, your testimony was you respond
10 to the sheriff's office at 9:15. Was that the time you
11 got there or was that the time you left the residence?

12 A. It was around 9, 9:15, something like that. It's
13 been a year. I'm not for sure.

14 Q. About how long does it take to get from where you
15 were to the sheriff's office? Just a few minutes?

16 A. Probably about five, ten minutes.

17 Q. You got there and when you got there, Tara Burns
18 was already in the conference room?

19 A. Yes.

20 Q. Already meeting with Ms. Neese and with Chris
21 Cook?

22 A. Yes.

23 Q. Seemingly in the middle of a conversation with
24 them?

25 A. No, they were done with her when I walked in.

1 Q. But they were still in the room with her?

2 A. Yeah.

3 Q. So you began the interview basically by telling
4 her if she was lying about the burglary, she could be in
5 a lot of trouble; she could lose her job, she could lose
6 her kids.

7 A. No.

8 Q. When did you say anything to the effect of if
9 you're lying about the burglary or you could be in a lot
10 of trouble or whatever? If I'm miss --

11 A. I'm sure it was during the conversation as far as
12 the burglary that her husband had reported to the city
13 that I picked up. During that conversation, I did tell
14 her if she was caught lying, she could be charged, which
15 would have an effect on her job and she could possibly
16 lose her kids if she didn't clean up her act, clean up
17 her house and not have her kids around the types of
18 drugs that were found when we were there.

19 Q. Okay. That portion of the interview lasted about
20 15 minutes.

21 A. Approximately.

22 Q. And during that time, did Ms. Neese or Mr. Cook
23 jump into the conversation at all or was it just between
24 you and her?

25 A. Just between me and her.

1 Q. When you walked out of the room, did you walk out
2 with Ms. Burns?

3 A. Yes, sir.

4 Q. When you walked out with Ms. Burns and she saw
5 Chris, did she ask you if we can talk for just a second?

6 A. She did.

7 Q. Did you hear any of their conversation?

8 A. Not that I recall.

9 Q. At some point, they hugged and then you took --

10 A. Then he went into the conference room and then I
11 did his interview.

12 Q. When you -- after Tara left, you then went in and
13 were sitting in on the interview with Mr. Burns or
14 conducting an interview with Mr. Burns?

15 A. Yes, sir.

16 Q. How did that interview end?

17 A. I left. I don't know.

18 Q. Don't know what happened after you left.

19 A. No.

20 Q. During your interview, that second interview with
21 Mr. Burns, were Ms. Neese and Mr. Cook still there?

22 A. Yes.

23 Q. Did they participate?

24 A. No.

25 Q. And your questions were basically directed to the

1 burglary?

2 A. Yes, sir.

3 Q. Were the questions dealing with, for example, a
4 missing SD card?

5 A. Yes.

6 Q. What do you recall about that?

7 A. Mr. Burns had reported that he had a stolen SD
8 card during the burglary.

9 Q. That one of the things that was stolen was an SD
10 card.

11 A. Yes.

12 Q. And did you understand that the allegation was
13 that the -- at least some folks in the sheriff's office
14 thought that the SD card was a sheriff's office SD card?

15 A. That's what Mr. Burns told me.

16 Q. During the portion of the interview that day.

17 A. During a previous interview, he stated that he
18 had stolen it.

19 Q. And when was that interview?

20 A. I've interviewed him so many times, I can't tell
21 you.

22 MR. SNOOK: That's all I have. Thank you,
23 Judge.

24 MS. NEESE: No further questions.

25 THE COURT: Any other evidence?

1 MS. NEESE: That's our evidence, Your Honor.

2 THE COURT: Mr. Snook?

3 MR. SNOOK: Could I have just a minute, Your
4 Honor?

5 (Mr. Snook conferred with the defendant).

6 MR. SNOOK: Call Mr. Burns, Your Honor.

7 LES CHRISTOPHER BURNS, CALLED AS A WITNESS, SWORN

8 DIRECT EXAMINATION

9 BY MR. SNOOK:

10 Q. State your name for the record, please.

11 A. Les Christopher Burns.

12 Q. Keep your voice up and point towards the
13 microphone.

14 A. Yes.

15 Q. Mr. Burns, I'm going to direct your attention
16 specifically to the incident on March 27th of 2013, a
17 year ago. Let me ask you. When you got up that
18 morning, what happened? Just start from when you got up
19 that morning.

20 A. I got up, got the kids ready and the wife ready
21 for work and sent them on their way and I was getting
22 ready for work myself.

23 Q. Do you remember roughly what time this was?

24 A. We got up right around six o'clock. Through the
25 course of an hour, fixing breakfast, taking showers and

1 whatnot. She left the house right around seven-ish,
2 somewhere in there. It's hard to be specific from a
3 year ago.

4 Q. Okay.

5 A. She left. I was finishing getting ready for
6 work.

7 Q. What was your work at that point?

8 A. Construction. I had a truck full of replacement
9 windows to put in and some vinyl siding to do.

10 I got a phone call about 10, 15 minutes after she
11 left. Said she had -- was having trouble. She didn't
12 specify what trouble. Just said I'm having trouble, I
13 need you to come to me. I asked her where and she told
14 me, DMV. I asked her what's wrong, what's wrong, what's
15 wrong. She wouldn't tell me, wouldn't tell me and she
16 was acting real weird. So, I assumed that she had been
17 pulled over. I asked her and she kind of confirmed it,
18 yes. I asked her was I in trouble because obviously,
19 she was trying to get me there. I assumed I was. She
20 said she didn't really know what was going on. She just
21 kind of hinted at, look, something's not right, you need
22 to come here. She was obviously scared.

23 I told her all right.

24 Q. You said she was obviously scared. What makes
25 you say she was scared?

1 A. Nervous, out of her element.

2 Q. Just in terms of tone of voice?

3 A. Her tone of voice, her demeanor, the way she was
4 talking to me, the things that she said. She was
5 circling around my questions. Wouldn't answer them.

6 Are you with the police? What's wrong? She wouldn't tell
7 me what is wrong. She wouldn't be specific. She usually
8 is.

9 Q. Did you have any -- did she say anything that
10 suggested that she was in trouble?

11 A. She didn't say anything, no. She sounded like it.
12 She sounded like she was scared.

13 Q. So what happened then?

14 A. I told her I was on my way. I hung up the phone
15 and walked out the door. As I walked out, I got in my
16 truck. I started the truck. I saw the vehicles coming
17 up the end of the road. They stopped. The officers got
18 out. They came up my driveway yelling at me to get on
19 the ground. I got on my knees with my hands behind my
20 head. I was handcuffed, put in the back of a car, after
21 they showed me my search warrant. They put me in the
22 back of a car. I think it was a county cop that was
23 driving the car. Said the Miranda stuff. You have the
24 right to remain silent, whatever.

25 Q. Did anybody ever give you a Miranda form to sign?

1 A. No.

2 Q. But you acknowledge they verbally told you the
3 Miranda rights.

4 A. Right.

5 Q. So were you taken some place?

6 A. I was taken to the sheriff's office in Bedford
7 County.

8 Q. Which is roughly how far away from where you
9 live?

10 A. Five, ten minutes. It's just a couple miles away.

11 Q. When you first got the call from your wife, 7:10,
12 something like that, 7:15, maybe?

13 A. Right around, yeah.

14 Q. About how long was it before you got transported
15 from that location to the sheriff's office?

16 A. Maybe a half hour or so.

17 Q. That was a sloppy question. How long were you
18 there at your house before you left in the car? Is that
19 the half hour?

20 A. From the time that my wife called and I hung up
21 the phone and went to get in my truck until the time I
22 arrived at the sheriff's office was, I'm assuming, about
23 a half hour.

24 Q. So now we're there 7:45 or somewhere around
25 there. Is that about right?

1 A. Roughly, yeah.

2 Q. So what happened when you got to the sheriff's
3 office?

4 A. I was took in and sat down in a room. I had to
5 wait for everybody else to get there, I guess, because
6 they were busy running around at the house or doing -- I
7 don't know what they were doing.

8 Q. How long did you wait before somebody joined you
9 in the room?

10 A. I don't know. At this point, I really --

11 Q. Short time, long time?

12 A. It wasn't too long.

13 Q. Who then joined you in the room?

14 A. Investigator Cook and Ashley Neese.

15 Q. And for how long -- so what was that discussion
16 like? Tell us how that went.

17 A. Basically, a series of questions, you know.
18 What are we going to find at your house? What have you
19 been doing? Have you been playing both sides of the
20 field? This and that about, do you know these people?
21 Have you been messing with these people? That's pretty
22 much -- I told them it's time for me to have a lawyer.
23 At that point, Ashley Neese said you didn't hire a
24 lawyer. I know because I just talked to him the other
25 day and you didn't have the money to hire him.

1 Q. Had you, in fact, been talking to a lawyer?

2 A. Yeah.

3 Q. And that lawyer had said that the lawyer wanted
4 to talk to Ms. Neese first before he quoted you a fee?

5 A. Oh, yeah.

6 Q. Did you, in fact, have a lawyer hired at that
7 time?

8 A. No, I didn't.

9 Q. But you expressed a desire to have a lawyer.

10 A. Yeah.

11 Q. What happened then?

12 A. Well, Cook went on with some more questions and
13 said this and that had been happening. They went into
14 some stuff about McKinney and the whole pop her cherry
15 thing. Asking me about injecting minors with drugs and
16 all kinds of stuff.

17 Q. What was your answer?

18 A. I hadn't had anything to do with any of that.
19 That's not what I was doing.

20 Q. All right.

21 A. That went back and forth for maybe half hour,
22 45 minutes. I don't really know how long it was. I went
23 downstairs in a room to be asked a bunch of questions by
24 these other people with computers. They started bringing
25 other people downstairs that had been arrested.

1 Q. So after some conversation that you had with
2 Chris Cook and Ashley Neese, you were taken to a
3 different room?

4 A. Yeah, downstairs in a big, kind of like a meeting
5 room, I guess. It had a couple white boards and some
6 big, long picnic tables with some chairs and a row of
7 laptops set up across them.

8 Q. When you went downstairs to that room, who were
9 you speaking with?

10 A. I don't know if it was a probation officer. I
11 don't know what they call that person.

12 Q. Did it seem to be somebody associated with the
13 federal court or somebody who was a state sheriff's
14 officer or what?

15 A. I really don't know.

16 Q. So you talked to somebody and what was that
17 discussion all about?

18 A. They were asking questions like about my past,
19 about what kind of drugs I've used throughout my life or
20 did I have a history of this or a history of that, did I
21 have a criminal record, did I have a driver's license,
22 how many kids did I have, how long had I lived where I
23 was; stuff of that nature.

24 Q. More background stuff than anything pertaining to
25 the indictment.

1 A. Right.

2 Q. So what happened then?

3 A. I was down there for a while. I went, was
4 brought back up and as I was brought back up, I saw my
5 wife in the hallway. We happened to cross paths. She
6 came over and talked to me. When she came and talked to
7 me, she was crying. She was telling me, they're saying
8 they're going to take the kids, don't let them take the
9 kids, I can't lose my job, you better not let me go
10 through this.

11 Q. Did she say they were going to take the kids if
12 something happened?

13 A. She said, they said they're going to take the
14 kids, don't let them take my kids, is what she was
15 telling me. She was hysterical. She was crying. We
16 didn't have much time at all together and we were
17 separated.

18 Q. What happened then?

19 A. I was taken into the interview room again with
20 Investigator Cook, Ashley Neese and Investigator Dryden.

21 Q. What happened then?

22 A. I was told if I did not cooperate that my wife
23 would lose her job, we could have the children taken by
24 social services and she could be arrested.

25 Q. Did they say what she might be arrested for?

1 A. No.

2 Q. So what happened after the threat of arresting
3 your wife, taking the kids, her losing the job? What
4 happened after that?

5 A. Dryden started in with the whole burglary in the
6 house and asking questions about where we were on
7 vacation and what really happened to the safe and this
8 and that. I insisted I don't know who broke into the
9 house, I don't know where the safe went and they kept
10 saying, if you don't cooperate, this is not going to be
11 good. I kept asking, what do you want me to tell you,
12 what do you want me to tell you? They said, we want you
13 to tell us the truth. I said I'm telling you the truth
14 they kept telling me, no, you're not, you're lying,
15 you're lying.

16 Q. How long did this second interview go on for?

17 A. I don't know. This was longer than the first
18 one. It was Dryden at first hammering me about the safe.
19 I just finally told them, look, I took the safe and
20 threw it off a bridge. I was fed up. I said, I threw it
21 off a bridge. They said, what bridge? I said, I don't
22 know, I don't know what the name of the bridge was. She
23 got mad and she left.

24 Q. Who's the "she"?

25 A. Ms. Dryden.

1 Q. So at that point, the interview continues with
2 Neese and Cook?

3 A. Yes.

4 Q. And what happens then?

5 A. Cook was asking me specifically about the tape
6 recorder, the chip in the recorder. I had told him
7 before, him and Investigator Young, that I was willing
8 to take a lie detector test. They told me no, you'd
9 probably just go and do drugs so you'll pass anyway. I
10 said, you can lock me up for a week, I don't care. I'll
11 take the lie detector test. He was asking me
12 specifically about when did this happen, when did you
13 take the chip, what day did you take the chip, who were
14 you buying from when you took the chip? I didn't know
15 anything about this stuff. He kept insisting and
16 insisting and insisting they told me if you don't
17 cooperate, this is going to get worse, it's going to get
18 worse so I told them --

19 Q. Let me stop you a second. You had done some buys
20 for the Bedford County sheriff's office.

21 A. Yes.

22 Q. Most of them, as I recall looking at the record,
23 seemed to have been in December of 2012?

24 A. Around that time, yes.

25 Q. You heard Officer Cook saying something about

1 attempts to buy from Tim Goodman and Samantha Hogan and
2 somebody else?

3 A. Yes.

4 Q. Do you know when that supposedly happened?

5 A. Around the end of December.

6 Q. You had made reference in an earlier hearing in
7 some testimony of yours around December 28th. Does that
8 sound about right?

9 A. I think that's the date. I don't know exactly.

10 Q. Had you made any buys from anybody after
11 December 28th?

12 A. I don't recall.

13 Q. Did you ever hear -- did you have other
14 conversations with law enforcement folks between
15 December 28th and this date where --

16 MS NEESE: Your Honor, I'll object to this
17 line of questioning. He's going well outside of what
18 he's filed a motion here on and what's been presented.
19 If he wants to go into that, I need additional witnesses
20 to come in before we get there.

21 MR SNOOK: I'll move on, Judge. That
22 probably is far afield at this point.

23 BY MR SNOOK:

24 Q. So you're being asked about all this stuff and
25 about the SD card and things like that. Did the topic

1 of conversation come back to drugs at some point?

2 A. Yes.

3 Q. How did that happen? Let me back up a second.

4 You've heard the testimony of Officer Cook. I
5 know you've seen the write-up of the testimony. Does
6 that write-up and the testimony you heard today, does
7 that accurately describe how the interview went with you
8 that day?

9 A. No.

10 Q. You started off -- was there a point where you
11 changed the overall nature of the conversation?

12 A. It went from the safe to the chip to the drugs
13 back to the chip. It kept going back to this microchip.

14 Q. Did your first -- I'll say the conversation that
15 you had at first. Was that the sort of confession that
16 you see memorialized in the writing from Officer Cook?

17 A. I'm sorry. Can you repeat that?

18 Q. Yeah. I know I've shown you before the document
19 that I had showed to Cook while he was on the stand
20 again.

21 This is the discovery Bates number 2142 and so
22 on.

23 You've seen that before?

24 A. Today. I've seen it today. Okay

25 Q. Rather than ask you about the document, let me

1 ask you just about the testimony that you heard today.

2 When you first began the discussion with Cook and
3 with Ms. Neese, did you first tell them all about
4 meeting Bryant Reynolds through Scottie Andrews,
5 distributing pills to all these different people, all
6 the discussion you heard from the witness stand today?

7 A. All of that stuff, they already knew from
8 testimony from grand jury hearings and from
9 pre-interviews and other interviews and all of that
10 stuff.

11 Q. So then there are other things that are
12 discussed. Later on, for example, they're discussing
13 about giving drugs to a minor, injecting a minor and so
14 on. Was that stuff that you had ever said before?

15 A. No.

16 Q. Did you say that that day?

17 A. I didn't until after they had come in the second
18 time and had started with the hard core interrogation.
19 My wife had been threatened and all this. Then they
20 come in saying, well, this girl said this, this and
21 this. I told them it's not true, that never happened.
22 They said -- they made the reference to "pop her
23 cherry." I guess I didn't understand it because I told
24 them I've never had any sexual activities or encounters
25 with that girl, ever.

1 Q. To you, what does the phrase "pop her cherry"
2 mean?

3 A. Cherry is a referral to a hymen.

4 Q. So to pop a girl's cherry refers to having sex
5 with her for the first time?

6 A. For the first time.

7 Q. And that's what you thought you were being
8 questioned about?

9 A. Yes, at first.

10 Q. And so later on, was there some other discussion
11 of that? Did you change the answer?

12 A. Well, they pointed out that we don't mean that
13 way. We mean as far as injecting with drugs. I told
14 them no, I've never injected her with drugs. That's
15 Mandy's girlfriend. That's her thing. That's what they
16 do. I'm not a part of what they do. They kept saying
17 she's already told us this and we have witnesses to say
18 this and if you don't tell us what we want to hear, this
19 is what is going to happen. You're going to end up in a
20 lot of trouble. We already told you.

21 Q. Okay. So was there other discussion what you
22 heard from the witness stand today that you did not, in
23 fact, say until after you had been threatened?

24 A. I had finally, in the end, I had admitted to
25 taking this microchip and he asked what case, who I was

1 buying from when it was taken, when I took it, why I
2 took it. I didn't have the answer as to when I had taken
3 it. I didn't know when it was taken because I didn't
4 take it. At that time, he said, well, why are you
5 telling me this if you didn't do it? I said, because you
6 made me. That's when he grabbed me by the arm and ended
7 the interview. He took me to the stairs. He told me,
8 don't tense up. He grabbed me by the shoulders. Don't
9 tense up, and started walking me down the stairs

10 Q. So now let me -- there's some extended discussion
11 in this report about various people you had bought from,
12 sold to, so on. Are there parts of this interview that
13 are, in fact, true, what you heard the officer testify
14 to today?

15 A. A lot of the stuff in there is truth as far as
16 how I met Bryant Reynolds or who I was getting pills
17 from. Then a lot of it, there's no way I could have said
18 that stuff at all. For instance, there's a name in
19 there, Camber Stump. I've never heard the name, Camber
20 Stump. I've given the name Camber Carter. There was
21 questions asked about purchase of heroin from a girl
22 named Holly. I don't know Holly's last name. But it
23 says in there I said her name is Holly Eckert. I've
24 never met a Holly Eckert.

25 Q. Just to be clear, I'm referring -- what I have in

1 my hand is something from, again, discovery number 2142
2 and so on.

3 Is this the document you're referring to or are
4 you referring to something else?

5 A. Yeah, this is the document.

6 Q. Okay. What are the specific parts of that
7 document that you say are not true?

8 A. Number 20. Burns purchased heroin from Holly
9 Eckert through Amanda McKinney.

10 I've never known Holly's last name. I've never
11 even met her face to face.

12 Q. So somebody else would have had to have provided
13 that last name in that report.

14 A. That's right.

15 Q. Okay. Is there anything else in that version that
16 is incorrect?

17 A. Line 18. Burns sold pills to this whole list of
18 people, and I bought heroin and pills from Deede and
19 Decanter, in Vinton? No.

20 Q. Is that simply not what was even discussed that
21 day or is that something that you eventually
22 acknowledged under pressure?

23 A. No, that was not said.

24 Q. Period.

25 A. Right.

1 I'd have to read through all of this.

2 Burns sold Suboxone pills to Gretchen Staton a
3 couple days ago. I never said I sold anything to
4 Gretchen Staton. I was questioned about did I sell her
5 the night before I was arrested and I said no, I never
6 left the house that night. I never met her anywhere and
7 sold her that. No, I never said that.

8 Q. So that again is a statement, you did not say it
9 at all in the interview.

10 A. No, I didn't.

11 Q. I want to distinguish for the purposes of this
12 hearing between things that you eventually said, you
13 agree that you eventually said it on that day, but you
14 said it only because you had been pressured to say it.
15 I'm trying to get at what qualifies as things you said
16 only because you had been pressured to say them.

17 A. About the storage device, it says that I had used
18 drugs while making the controlled purchase and that was
19 why I stole it. I never said that.

20 Q. Okay. Did you agree with something that --

21 A. I did eventually agree, yes, that I had stolen
22 it, in the middle. Then at the end of the conversation,
23 I told them I didn't know the specific details because
24 it didn't actually happen. The only reason I had
25 admitted it was because I had just been threatened into

1 it.

2 Q. So you've mentioned the bit about the SD cards.
3 You've mentioned the bit about popping her cherry. Is
4 that also something that you eventually admitted to, but
5 it was not, in fact, correct?

6 A. Yes.

7 Q. And the reason why you, quoting, admitted that,
8 was what?

9 A. Because I had been threatened, the same as with
10 the distribution. I never said I distributed to all
11 these people here. These people, I never said that. I
12 never said I sold to all those people.

13 Q. So again, I want to keep -- whether the officer
14 is making it up is a different question from the
15 question I'm asking. The question I'm asking are about
16 things you agree that you said, but you said them only
17 because you were being threatened or because your wife
18 was being threatened.

19 What things did you say that you agreed to
20 because you or your wife had been threatened? The part
21 about the SD card; yes?

22 A. Yes.

23 Q. The part about popping her cherry?

24 A. Yes.

25 Q. Anything else?

1 A. What we talked about with the safe.

2 Q. Okay. Anything else?

3 A. I'd have to read through it all to be sure, but
4 you want to know about things I said, but then retracted
5 because I had been threatened.

6 Q. Yes.

7 THE COURT: I have a schedule today that I
8 have to meet. I can't keep going. If he's not
9 prepared, we can go another day.

10 THE WITNESS: I think that's all.

11 BY MR SNOOK:

12 Q. How did things end in your conversation?

13 A. I was asked why I couldn't give details to
14 specific incidences. I told them because I didn't
15 commit those incidents, those events. Mr Cook asked why
16 I had said something that wasn't true and I said because
17 you made me. That's when the interview was ended and I
18 was taken out of the room.

19 MR SNOOK: That's all the questions I have.

20 CROSS-EXAMINATION

21 BY MS NEESE:

22 Q. Mr Burns, you've read this, correct? You've read
23 the motion to suppress that your counsel filed?

24 A. Part of it, yes.

25 Q. You didn't read the whole thing?

1 A. It was read to me though.

2 Q. So you know what it says?

3 A. Pretty much.

4 Q. This is completely different than what's said in
5 here, correct?

6 A. I don't know.

7 Q. You've been in here this entire time, right?

8 A. Yes.

9 Q. You've heard Investigator Cook testify?

10 A. Uh-huh.

11 Q. You have to say yes or no on the record.

12 A. Yes, I have.

13 Q. You've heard your wife testify.

14 A. Yes.

15 Q. And you've heard Detective Dryden testify?

16 A. Yes.

17 Q. And now you're testifying directly in conflict
18 with all three of those?

19 MR SNOOK: Object to the conclusion.

20 THE COURT: Sustained.

21 BY MS NEESE:

22 Q. You understand what obstruction of justice is,
23 sir?

24 A. I think so.

25 Q. Do you understand what perjury is?

1 A. I think so.

2 Q. Did you talk to your wife on Sunday night?

3 A. Yeah.

4 Q. She tell you she was going to be testifying?

5 A. Testifying where? Here?

6 Q. Yes.

7 A. Yeah, I think so.

8 Q. You told her, you're going to throw me under the
9 bus, aren't you?

10 A. I don't know if I told her she was going to or
11 asked her if she was going to. I don't remember exactly
12 how that conversation went.

13 Q. Your wife is a pretty truthful person, isn't she?

14 A. Yeah.

15 Q. Talked to her last night, too, didn't you?

16 A. Yes.

17 Q. Told her she was brutally honest, after you
18 talked to Mr Snook, didn't you?

19 A. She is.

20 Q. But you read this motion?

21 A. I read part of it. I had part of it read to me.

22 Q. She's brutally honest.

23 A. She is.

24 Q. She testified that she was never threatened by
25 myself or Investigator Cook; right?

1 A. Yeah.

2 Q. She never told you that in the hall, did she?

3 She's never once told you that. Not any time that you
4 ever talked to her did she ever tell you she was
5 threatened by us.

6 A. She never said you and she never said

7 Investigator Cook. She said "they."

8 Q. That wasn't my question though. She never has
9 told you that she was threatened by me.

10 A. No.

11 Q. She's never told you that she was threatened by
12 Investigator Cook.

13 A. Okay.

14 Q. Is that a yes or a no, sir?

15 A. As far as I know, she hasn't.

16 Q. You've engaged in a lot of phone conversations,
17 haven't you? You've thought about this case for a long
18 time; right?

19 A. In a way. In a way, I try not to.

20 Q. One of your theories is to make me a witness to
21 this case, isn't it? You've talked about that numerous
22 times on the phone calls?

23 A. I've thought about it, yes

24 Q. But there's nothing in this motion about how you
25 allegedly tell us you want counsel on that day?

1 A. I'm sorry?

2 Q. Nothing is in the motion and you never brought up
3 in the last year and two months that you allegedly told
4 us you wanted counsel that day; right?

5 MR SNOOK: Objection. It was said in the
6 third hearing before the Court

7 MS NEESE: Your Honor, I think I actually
8 brought that up. We'll get to that.

9 THE COURT: Answer the questions

10 THE WITNESS: What's the question?

11 BY MS NEESE:

12 Q. You never have brought up that you asked for
13 counsel that day. It's not brought up in your motion
14 here today, is it?

15 A. I think I brought it up at our motion to dismiss.
16 I may be mistaken, but I thought I did.

17 Q. Let me ask you this. Did you read the response
18 from the United States in the motion to dismiss?

19 A. I don't recall.

20 Q. Did you get a line of questioning on
21 cross-examination when I asked you if you had contacted
22 an attorney?

23 A. Yes, I believe.

24 Q. You didn't bring it up on your own though, did
25 you, sir?

1 A. Yes, I did, actually.

2 Q. Okay. Let me ask you this. Who was that
3 attorney?

4 A. Mr. Potter, I believe.

5 Q. You believe or do you know?

6 A. I'm pretty sure.

7 Q. You never asked us for counsel that day, did you?

8 A. Yeah, I did.

9 Q. But it's not in your motion, right? It's suddenly
10 brought up here in the middle of your testimony,
11 correct, first time?

12 A. It was brought up in November as well.

13 Q. November, sir? We didn't have a hearing in
14 November.

15 A. I'm sorry, September.

16 Q. Let's go back to the witness thing. You've
17 admitted that on numerous occasions on the phone that as
18 long as I'm a witness, I can't prosecute your case;
19 right?

20 A. That was my understanding

21 Q. And that's what you wanted; right?

22 A. I don't know.

23 Q. You've had plenty of discussions on the phone
24 regarding my involvement in this case and what your
25 thoughts are and what your mom's thoughts are, back and

1 forth?

2 A. Are you asking my opinion?

3 Q. No. I'm asking, you've had these plenty of phone
4 calls, haven't you?

5 A. I've said something about it, you being a
6 witness, yes.

7 Q. You've called me many names on the phone, right?

8 A. I'm sure I've expressed my opinion about you,
9 yes.

10 Q. You don't want me prosecuting this case, do you?

11 A. Are you asking my opinion?

12 Q. Exactly, sir. You don't want me prosecuting this
13 case, do you?

14 MR SNOOK: Objection as to relevance.

15 THE COURT: This is getting argumentative.

16 MS NEESE: Your Honor, may he answer that
17 question though? I think it's relevant to the fact of
18 what's been filed here today and what he's alleging

19 THE COURT: Answer the question yes or no.

20 THE WITNESS: I don't have an opinion, solid
21 opinion developed at this time.

22 MS NEESE: Your Honor, at this point in
23 time, we're going to request additional time at this
24 point to set forth additional evidence regarding the
25 jail recordings in this case.

1 THE COURT: Okay.

2 MR SNOOK: On a matter that is highly
3 collateral, if relevant at all. I don't think it's
4 appropriate, Judge.

5 THE COURT: Okay.

6 BY MS NEESE:

7 Q. Sir, are you accusing me of threatening you on
8 that day?

9 A. Me? I didn't say you said anything. I never
10 accused you.

11 Q. Sir, have you read your motion?

12 MR SNOOK: Judge, I will freely acknowledge
13 that my motion, which he did not write, mentions Ms.
14 Neese and if I had known exactly what the facts were, I
15 would have mentioned Ms. Dryden as well.

16 MS NEESE: Your Honor, he's freely admitting
17 he didn't know the facts of the case and has filed
18 something that's not accurate.

19 THE COURT: Let's move on.

20 MR SNOOK: I stand corrected. Every now and
21 then, I learn new facts.

22 BY MS NEESE:

23 Q. So I'm asking you, sir, did I ever threaten you
24 in any way?

25 A. You were in the room with me when I was

1 threatened. You didn't stand up and prevent it. You
2 didn't leave the room. You allowed it to happen. You
3 were there. You are the overseer of this case.

4 Did I take it as you threatening me? Yes. You
5 were the higher authority. You allowed it to happen. You
6 sat back and watched it happen. So yes, that is how I
7 perceived it. If my perception is incorrect, I
8 apologize for the misunderstanding, but I don't see how
9 it is.

10 Q. We're two weeks away from trial, correct?

11 A. Yes.

12 Q. A year and two months into this and this is the
13 first time this has ever been brought up, right?

14 A. No.

15 Q. Never?

16 A. No, this was brought up in September.

17 Q. That was a motion to dismiss the indictment, sir?

18 MR SNOOK: Judge, now we're arguing about
19 legal strategies with a lawyer who was not even in the
20 case.

21 THE COURT: Let's go.

22 BY MS NEESE:

23 Q. You understand the investigative side and the
24 prosecutive side are two different sides of things?

25 A. Yes.

1 MR SNOOK: Objection as to relevancy, Your
2 Honor.

3 MS NEESE: He's classifying me as an
4 overseer. There's two separate sides

5 THE COURT: He said that was his perception.

6 BY MS NEESE:

7 Q. You were never asked about having popped
8 anybody's cherry, on March 27th, were you? You were just
9 asked if you injected anyone.

10 A. No, that is not true.

11 Q. Really?

12 A. The statement was made, pop her cherry, exactly,
13 expressly. I remember that very vividly because my
14 return reply was I have never had sexual relations with
15 that girl, ever.

16 Q. No one ever accused you of having sexual
17 relations with a minor ever, have they?

18 A. No, they haven't, and it was clarified it didn't
19 mean a sexual relation. It meant shoot up for the first
20 time.

21 Q. Let me ask you this, sir. Regarding popping her
22 cherry, that didn't come out until discovery came out,
23 did it, well after you were indicted and charged,
24 arrested and appeared before the Court?

25 A. It came out on the 27th when I was questioned in

1 the interview room.

2 Q. But that's not in the report, is it? You didn't
3 say -- what you did say just a minute ago, but that was
4 in the report, but the injection? Is that what you're
5 saying? I'm sorry

6 A. A lot of things that were said are not in the
7 report. That report is not an accurate depiction of what
8 actually happened.

9 Q. You've convinced yourself of a lot of things in
10 jail, haven't you?

11 A. I've not convinced myself of anything.

12 Q. Convinced yourself your wife was going to stand
13 by you through this hearing, didn't you?

14 A. I'm not convinced of anything.

15 Q. Amanda McKinney does know a girl named Holly,
16 correct?

17 A. Yes.

18 Q. And you've gotten heroin through Amanda McKinney
19 through Holly before; correct?

20 A. I don't know if it came from her or not. She said
21 it did.

22 Q. That's what you informed us on that day.

23 A. That it came from a girl named Holly.

24 Q. Paragraph 18. You said you never sold pills to
25 any of these people. Is that what you said?

1 A. That's not what I said.

2 Q. You said you never told us you distributed pills
3 to those people?

4 A. I said I never told you that I distributed pills
5 to all the people on this list.

6 Q. Okay. Then clarify, sir. What do you mean by
7 that?

8 A. I mean exactly what I said. I never told you in
9 that interview or any other time that I sold pills to
10 those people on that list.

11 Q. So Investigator Cook was lying when he wrote this
12 list?

13 A. I can't say that he was lying. I don't know that
14 he wrote that list. But that list is incorrect. That is
15 not a statement that I made directly. I never said that.

16 Q. We don't have it here today, but have you been
17 able to review all the discovery, sir? There are two
18 reports in the discovery of March 27th. There's
19 Investigator Cook's report and the report your attorney
20 has filed with the Court; is that correct?

21 A. Okay.

22 Q. This is signed by Russell Davidson with ATF?

23 A. Okay.

24 Q. You also just said a minute ago that you never
25 bought heroin from Deede and Decanter, but in fact, the

1 report never says that. It says instead -- in the Vinton
2 area -- it says they live in the Vinton area; is that
3 right?

4 A. The way I understood, what that said was I had
5 admitted buying heroin from Erin Deede and Ashley
6 Decanter. That's the way that I understood it.

7 Q. So you're clarifying your last statement?

8 MR SNOOK: Judge, for the record, I would
9 note I've tried in my questioning of the defendant to
10 limit the issue to things that he said, not to things he
11 disagrees with or says the officer got wrong, but
12 rather, as to things that he says the officer put down
13 that he had changed because of intimidation. I think we
14 got down to only about three paragraphs and I don't
15 think that was one of them.

16 MS NEESE: Your Honor, I'm pretty sure
17 paragraph 18 that I'm talking about was one of them.

18 THE COURT: Go ahead with paragraph 18.

19 BY MS NEESE:

20 Q. Paragraph 18 is the one talking about who you
21 distributed pills to and that's the one talking about
22 the heroin you were just talking about; is that correct?
23 Do you have a copy in front of you?

24 (Said document handed to the witness).

25 A. What is the question?

1 Q. You just testified a minute ago that you had
2 never bought heroin from them in Vinton, but that's not
3 what that paragraph says, is it?

4 A. It says, Deede and Decanter have sold heroin and
5 pills to Burns in the past.

6 Q. It doesn't say in Vinton, does it? People get
7 confused sometimes, don't they? They testify to
8 something --

9 MR SNOOK: Objection. I'd like to have him
10 answer one question at a time.

11 THE COURT: Sustained.

12 BY MS NEESE:

13 Q. Is that correct, sir?

14 A. It says earlier in here, Deede and Decanter from
15 Vinton.

16 Q. It doesn't even say from Vinton, sir.

17 A. I can read back through it and find it if I need
18 to, where it says from Vinton.

19 Q. No. The proceeding two sentences, one of them
20 says they live in the Vinton area, but it never says you
21 bought heroin from the Vinton area. So what you're doing
22 is confusing what you said and what you read. That
23 happens, right? Just like you're confusing the fact you
24 never were interviewed by Investigator Cook and me after
25 Dryden left that day.

1 A. No, I'm not.

2 MS NEESE: No further questions, Your Honor.

3 MR SNOOK: I have nothing further, Judge

4 THE COURT: Step down, please.

5 MS NEESE: Briefly, we'd like to call
6 Investigator Cook as a rebuttal witness to what Mr.
7 Burns has testified to.

8 CHRISTOPHER COOK, PREVIOUSLY SWORN, RECALLED AS A

9 WITNESS BY THE GOVERNMENT

10 DIRECT EXAMINATION

11 BY MS NEESE:

12 Q. You're still under oath. Do you understand that?

13 A. Yes, ma'am.

14 Q. Have you heard Mr. Burns testify here today?

15 A. I have.

16 Q. After Detective Dryden interviewed Mr. Burns, did
17 you ever conduct another interview of Mr. Burns?

18 A. I did not.

19 Q. Did I ever conduct another interview of Mr.
20 Burns?

21 A. No, ma'am.

22 Q. Did you take him downstairs?

23 A. Yes, ma'am.

24 Q. Did you ever grab him by the arm?

25 A. No, ma'am.

1 Q. Would you please explain that to the Court?

2 A. Upon leaving the conference room, I escorted Mr.
3 Burns to the downstairs area. Once we got to the top of
4 the steps, Mr. Burns did tense up. I told him not to
5 tense up. At that time, Deputy Nash came to my location
6 and the two of us escorted him downstairs to the area
7 the probation people were at.

8 Q. Did you ever threaten Mr. Burns at any point in
9 time?

10 A. No, ma'am.

11 MS NEESE: No further questions, Your Honor

12 CROSS-EXAMINATION

13 BY MR SNOOK:

14 Q. You had the ability to be taping these
15 conversations, but you chose not to.

16 THE COURT: I think we heard enough about
17 that already.

18 MR SNOOK: Judge, there's one question I want
19 to ask relating to that.

20 THE COURT: All right.

21 MS NEESE: Your Honor, I didn't ask anything
22 about that.

23 THE COURT: Let's go on. I've got to leave.
24 We'll have to come back.

25 BY MR SNOOK:

1 Q. The interview room that has the ability to do a
2 video interview was not in use at the time you were
3 talking to him; is that correct?

4 A. I don't know if it was in use or not. We chose
5 to use the conference room.

6 Q. At 7:45 in the morning, you don't know whether
7 there was anybody else being interviewed at the time?

8 A. We chose to use the conference room at the
9 sheriff's office to use for the interview.

10 MR SNOOK: That's all.

11 THE COURT: Thank you. You may step down.

12 Is there any other evidence on any of the
13 other motions?

14 MS NEESE: Your Honor, at this point in time
15 regarding the motion in limine, I have a jury trial next
16 week and I haven't been able to respond to be in
17 compliance with the joint discovery order. We have to
18 respond within seven days. However, I'm saying in
19 response orally that there is no federal rule of
20 evidence that governs inextricably intertwined evidence.
21 We've provided notice throughout discovery. He has
22 notice obviously because he's filed a motion in limine
23 to restrict some of these things and our argument would
24 be portions of this motion in limine will be
25 inextricably intertwined and intrinsic evidence to the

1 case and not 404(b) evidence.

2 MR SNOOK: Your Honor, I'm not sure how
3 exactly I can respond and it may be we have to wait and
4 see how trial goes, but obviously, I'm concerned about a
5 couple of things. One is there's extremely inflammatory
6 allegations even in the evidence the Court heard today
7 that don't effectively prove any point or make it
8 anymore likely that the government has proven a
9 conspiracy. I think the Court can rule, frankly, on the
10 basis of our representations. I don't know if the Court
11 wishes us to present evidence or present the evidence we
12 wish the Court to not consider. We can do that if the
13 Court directs. I don't know exactly how you want us to
14 proceed though. I'm mindful of the Court's schedule. I
15 will take whatever direction the Court would offer.

16 THE COURT: I'm looking at things like these
17 pictures and things like that.

18 MS NEESE: Your Honor, regarding number
19 one -- and I do want to respond in writing because it
20 will give my full argument.

21 Regarding the photos from defendant's cell
22 phone, specifically at least as to number one, the
23 photographs from 2007 would not be used. There are some
24 photographs on there that he hasn't -- he just said nude
25 selfies. However, there are some photographs on the cell

1 phone that could potentially be used. I'm not saying
2 we're definitely going to be using them, but there are
3 specific witnesses to be testifying that he had specific
4 pictures on his cell phone. In fact, there's at least
5 one picture of him actually shooting someone up in the
6 arm. We don't know if it's himself or not. We're going
7 to do some further testing on that one, but we do have
8 an injection shot on there as well.

9 As to #2, I will write all this up. There
10 are numerous witnesses who could potentially testify
11 during this jury trial that he was getting pills from
12 other people to then distribute to them, for them to
13 engage in certain activities with him. That's clearly a
14 conspiracy, Your Honor, in our point of view. And there
15 are also people that were trading back and forth with
16 him and selling to him. We're going to indicate that
17 that is intrinsic and it is inextricably intertwined to
18 this case.

19 Regarding the forged prescription, the
20 evidence you don't have before you is one of his
21 co-defendants, Jennifer Hershey, is the one helping him
22 get that prescription and they were getting it not only
23 for their own use, but for the distribution to each
24 other and other people. Additionally, Aliasha Dixon has
25 already provided a statement he was going to try to have

1 her go pick up the statement. She's another person not
2 charged in this conspiracy, but was getting pills from
3 Burns, not just prescription pills and we'll also argue
4 that's inextricably intertwined evidence

5 Regarding the death of Jonathan Bohon, we
6 will brief that to you because that's much more than
7 what is in the motion here.

8 Evidence of use of other drugs, if it's
9 during the course of the conspiracy, Your Honor, it's
10 definitely going to be inextricably intertwined
11 evidence. Plus, the bags that came up from the search
12 warrant that was executed at his home did determine to
13 test positive for heroin and there's also allegations
14 made by numerous witnesses that he was a distributor of
15 heroin during the course of this conspiracy to the same
16 people he was distributing pills. They're both opiate
17 based drugs and we'll be arguing it's in inextricably
18 intertwined.

19 MR SNOOK: I guess we'll have to see the
20 government's response before I can make a more detailed
21 response.

22 THE COURT: Do y'all want to be heard
23 further on this motion today or do you want to write?

24 MR SNOOK: Judge, we haven't even had a
25 chance to discuss law. The facts are the first issue.

1 The Court has heard the facts. I don't know that we
2 need to spend much more time with the Court on that. If
3 the Court wishes, I'd be happy to take up your time.

4 THE COURT: No.

5 MS NEESE: We'll rest on the facts and
6 indicate that this was a voluntary statement.

7 THE COURT: I'll let you know something
8 about this pretty quickly.

9 We'll recess now.

10
11
12 "I certify that the foregoing is a correct transcript
13 from the record of proceedings in the above-entitled
14 matter.

15

16

17 /s/ Sonia Ferris

18 May 28, 2014"

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INDEX**WITNESS FOR GOVT.**

Chris Cook	
Direct Examination by Ms. Neese.....	3
Cross-Examination by Mr. Snook.....	21
Redirect Examination.....	32
Recross-Examination.....	35
Further Redirect Examination.....	38
Tara Burns	
Direct Examination by Ms. Neese.....	39
Cross-Examination by Mr. Snook.....	54
Redirect Examination.....	66
Sarah Dryden	
Direct Examination by Ms. Neese.....	69
Cross-Examination by Mr. Snook.....	75

WITNESS FOR DEFENSE

Les Christopher Burns	
Direct Examination by Mr. Snook.....	80
Cross-Examination by Ms. Neese.....	98

REBUTTAL WITNESS FOR GOVT

Chris Cook	
Direct Examination by Ms. Neese.....	112
Cross-Examination by Mr. Snook.....	113